



PUNISHMENT BEFORE TRIAL

Prison Conditions in Venezuela

Human Rights Watch/Americas

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PREFACE

This report is one of a series of reports published by Human Rights Watch that describe conditions in prisons worldwide. Our organization has conducted specialized prison research and worked on behalf of prisoners' rights since

1987, striving to focus international attention on the treatment of prisoners. To date, we have investigated and reported on prison conditions in Brazil, Czechoslovakia (prior to its division into two states), Egypt, India, Indonesia, Israel and the Occupied Territories, Jamaica, Japan, Mexico, Poland, Romania, South Africa, the former Soviet Union, Spain, Turkey, the United Kingdom, the United States (including a separate short report published on Puerto Rico), Venezuela, and Zaire. In this report, as in our past reports, we assess the government's practices according to the guidelines set forth in the United Nations Standard Minimum Rules for the Treatment of Prisoners, as well as the relevant provisions of international human rights treaties to which the country is a party.

This report describes and evaluates the treatment of prisoners confined in the Venezuelan prison system, which according to Venezuelan law is under the authority of the Ministry of Justice. It does not cover conditions in police lockups, where prisoners are generally held after arrest and often for several months prior to transfer into the prison system.

Although where directly relevant this report touches on other deficiencies in the criminal justice system, it does not purport to be a comprehensive evaluation of the administration of justice in Venezuela.¹ Nonetheless, the reader might usefully keep in mind that the Venezuelan prison system as described here is simply one element of a larger whole. The decisions of, among others, Venezuela's police, judges, public defenders, and prosecutors also directly affect the lives of persons incarcerated in Venezuela's prisons. Moreover, many of the problems described in this report—physical abuse, impunity, corruption, an overburdened system—are not limited to the prisons but afflict other parts of the justice system as well. Thus, while it is imperative that the prison system be reformed, any serious effort to improve the situation of Venezuelan prisoners will eventually have to reach beyond prisons to remedy some of the country's larger problems.

Context

Underlying Venezuela's prison crisis are other serious issues, including a stagnating economy, a violent crime epidemic and, more broadly, a lack of public confidence in government. While these factors in no way excuse the atrocious conditions found in the country's prisons, they do indicate that reforming the situation is no facile matter.

For decades, while so many other countries in Latin America struggled with guerrilla wars, authoritarian governments, rampant human rights abuses, and, in the 1980s, a strangling debt burden, Venezuela stood out as an exception. Distinguished as the region's oldest uninterrupted constitutional democracy, it enjoyed political stability, democratic governments and relative social tranquility. Buffering it from the economic crises that struck elsewhere in region were vast, nationalized oil reserves.²

During the 1980s oil wealth and foreign investment allowed Venezuela, despite economic stagnation, to avoid the painful economic choices faced in other Latin American countries, but the bubble finally burst at the end of the decade. In 1989, with the presidency of Carlos Andrés Pérez, stringent structural adjustment policies were instituted, the burden of which fell disproportionately on the poor. Public subsidies—particularly for food, education, transportation, and energy—were slashed, poverty increased, and unemployment reached new highs, inspiring social unrest. On February 27, 1989, even before the full impact of the new policies was felt, the poor of Caracas erupted in protest. The week of rioting and brutal military repression that followed became known as the "*Caracazo*," the most notable of a continuing series of street protests.

For several years now, Venezuela has been struggling with economic stagnation and its all too visible consequences. The gap between rich and poor is enormous, and the middle class has all but disappeared, swallowed up by poverty. Financial scandals have resulted in the collapse of several major banks, whose administrators have avoided prosecution by fleeing abroad. As problems mount, doubts continue to arise regarding the capacity of Venezuela's leaders and

public institutions to respond adequately. At present, the economy is weak and public confidence in government is low. Although Venezuela's gross national product grew slightly in 1995, it shrank 1 percent during 1996,³ while the inflation rate reached the record figure of 103 percent.⁴ Numerous public ministries claim to be underfunded;⁵ the Justice Ministry, in particular, has stated repeatedly that the main obstacle to prison reform is a lack of resources.

Even Venezuela's claim to democratic stability has been challenged. In February 1992, the country was shaken by an attempted military coup, and then, nine months later, by another. In mid-1994, the government suspended several basic constitutional guarantees, raising further questions about the strength of the country's democratic tradition.

But the crime epidemic, leading to public pressure to incarcerate people, is the issue most directly relevant to the prison crisis.⁶ During the late 1980s and early 1990s, declining incomes and deteriorating living conditions led to an explosion in the crime rate. The problem of "insecurity," as it is labeled, earned a prominent place in the public debate. Indeed, opinion polls consistently single out crime as Venezuelans' primary concern, even above their concern for declining living standards. As in previous years, in 1996 the crime rate continued to worsen.⁷

The breakdown of law and order in Caracas is palpable. Robbery, often accompanied by violence, is a frequent event, as is murder. With four million inhabitants, Caracas averages thirty killings every weekend.⁸ A 1995 Gallup poll found that approximately one-third of Caracas residents had been victims of crime over the course of the year.⁹ The situation has gotten so out of hand, and public confidence in the criminal justice system has ebbed to such a degree, that citizens sometimes resort to lynching. Mobs of people, particularly in poorer areas of the city where inhabitants feel most unprotected by police, have attacked and killed suspected criminals with sticks, stones and other rudimentary weapons.¹⁰ The lynchings reportedly began with a couple of isolated incidents in 1994 but quickly multiplied. Despite the brutal character of these acts of vigilante justice, opinion polls show that they have broad public support.¹¹

Such punitive sentiments bode poorly for the cause of prison reform. As in other countries where crime reduction is perceived to be a pressing national priority, many Venezuelans are more concerned with keeping prisoners locked up than with ensuring that they are locked up in humane conditions. Criticism of Pope Jean Paul II's early 1996 visit to Catia prison was indicative of harsh public attitudes toward prisoners. As one magazine article asserted, "People believe that it would have been more fitting for the Pope to meet with all the people mistreated by the prisoners, than with the prisoners."¹²

Methodology

In conducting its prison investigations, Human Rights Watch follows a self-imposed set of rules: investigators undertake visits only when they, not the authorities, can choose the institutions to be visited; when the investigators can be confident that they will be allowed to talk privately with inmates of their choice; and when the investigators can gain access to the entire facility to be examined. Prior to our March 1996 visit to Venezuela, we requested permission to conduct a study of the country's prison system and informed the Venezuelan authorities of the conditions under which we wished to conduct the visits. Their response, both in granting our request and in their subsequent reception of our mission, was entirely positive.

Venezuelan government officials and, in particular, officials of the Ministry of Justice, made no attempt to obstruct or delay our investigation. On the contrary, they granted us full and free access to each of the prisons we wished to visit, provided us with helpful documentary information, and made themselves available for extended meetings. Unfortunately, a few individuals were difficult or uncooperative. Some lawyers in the Public Ministry, for example, were reluctant to speak to us, and ended up flatly denying our requests for an interview. In one prison, members of the National Guard tried to bar us from interviewing prisoners in private, but after some discussion this situation was resolved. On the whole, we should emphasize, our mission was noteworthy for the cooperation, assistance and

responsiveness of the Venezuelan authorities.

During our three-week mission, we spoke with a wide variety of government officials, including prison directors, prison staff, prosecutors, judges, the president of the Subcommission on Human Rights and Constitutional Guarantees of the Chamber of Deputies, and the governor of the state of Bolívar; as well as with numerous academics, representatives of nongovernmental organizations and religious groups. We also met with several ministers, including the minister of justice, the minister of defense, and the president's chief of staff (Ministro de la Secretaría de la Presidencia); the state prosecutor; and the U.S. ambassador to Venezuela.

The bulk of the information contained in this report, however, was gathered during our inspections of eleven of Venezuela's thirty-two prisons-including the country's only women's facility-and our extensive interviews with prisoners. We spent a day or more at nearly every prison we visited, viewing the entire facility, including punishment cells and other segregation areas, the infirmary, the kitchen, the recreation areas, the bathrooms, and, of course, the prisoners' living quarters. In each prison, we measured cells, smelled bathrooms, checked faucets, scrutinized bugs, tasted food, and looked behind closed doors, among other things. Some of our interviews with prisoners were conducted informally, as we walked with them through the cell blocks; some were in groups, when we asked, for example, how many unsentenced prisoners had been confined for three, four, or five years; but many of them were one-on-one interviews conducted outside of anyone else's hearing.

Although we discovered a range of official abuses against prisoners, Venezuelan prisons are not characterized by the oppressive atmosphere Human Rights Watch has encountered in certain other prison systems where prisoners have been afraid to speak to investigators, even privately, because of the threat of serious retaliation.¹³ Indeed, prisoners were clearly less reticent in recounting official abuses than they were in describing inmate-on-inmate abuse.

International Human Rights Standards Governing the Treatment of Prisoners

The chief international and regional human rights documents binding on Venezuela clearly affirm that human rights extend to persons who are incarcerated. The International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the American Convention on Human Rights, all of which Venezuela has ratified, prohibit torture and cruel, inhuman, or degrading treatment or punishment, without exception or derogation. Both the ICCPR and the American Convention require that "the reform and social readaptation of prisoners" be an "essential aim" of imprisonment.¹⁴ They also mandate that "[a]ll persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person."¹⁵

Several additional international documents flesh out the human rights of persons deprived of liberty, give guidance as to how governments may comply with their obligations under international law, and provide authoritative interpretations of the norms binding on governments. The most comprehensive such guidelines are the United Nations Standard Minimum Rules for the Treatment of Prisoners, adopted by the Economic and Social Council in 1957. Other relevant documents include the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, adopted by the General Assembly in 1988, and the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in 1990. It is worth noting that although these instruments are not treaties, their most important norms are nevertheless binding on governments because they have achieved the status of customary international law.

These documents reaffirm the tenet that prisoners retain fundamental human rights. As the most recent of these documents, the Basic Principles, declares:

Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the

human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants.¹⁶

Endorsing this philosophy in 1992, the United Nations Human Rights Committee explained that states have "a positive obligation toward persons who are particularly vulnerable because of their status as persons deprived of liberty" and stated:

[N]ot only may persons deprived of their liberty not be subjected to [torture or other cruel, inhuman or degrading treatment or punishment], including medical or scientific experimentation, but neither may they be subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons. Persons deprived of their liberty enjoy all the rights set forth in the [ICCPR], subject to the restrictions that are unavoidable in a closed environment.¹⁷

Significantly, the Human Rights Committee also stressed that the obligation to treat persons deprived of their liberty with dignity and humanity is a fundamental and universally applicable rule, not dependent on the material resources available to the state party.¹⁸

I. SUMMARY AND RECOMMENDATIONS

Overcrowded, understaffed, physically deteriorated, and rife with weapons, drugs and gangs, Venezuela's prisons have a deservedly poor reputation. Although their notoriety largely springs from a few brutal outbursts of violence-including the 1994 massacre of over one hundred inmates at Sabaneta prison and the 1996 killing of twenty-five inmates at La Planta prison-these are simply the most newsworthy among countless violent incidents. The prisons' appalling violence, moreover, emerges from a host of other chronic problems.

By the mid-1980s, prisons in Venezuela were already in a state of crisis, and by 1994 the crisis had worsened to such an extent that the Venezuelan Public Ministry warned that it "threaten[ed] democratic stability." In 1996, the prison system's defects drew international scrutiny, as delegations from the Inter-American Commission on Human Rights, the European Parliament, Human Rights Watch/Americas and Amnesty International visited Venezuela and urged the government to institute reforms.

Expressing increased concern over the prison situation in recent years, the government has tried new strategies such as posting the National Guard within the prisons and delegating administrative power over the prisons to state governments. But such measures have neither substantially reduced prison violence nor relieved their other serious problems. Progress has at best been incremental. Notably, however, as part of a declared effort to "humanize" the prison system, the Ministry of Justice did succeed in closing Catia prison in Caracas, this past January, replacing it with two modern prison annexes.

Besides benefiting the prisoners who were confined there, the closing of Catia prison was a symbolically important step. As much or more than any other prison in the country, Catia epitomized the worst aspects of the Venezuelan prison system. One of the country's most violent and overcrowded facilities and the site of a brutal 1992 prisoner massacre, it had been slated for closure for years. In March 1996, when a Human Rights Watch/Americas delegation visited Venezuela, several expert observers, voicing general skepticism over the prospects for prison reform, told us that they believed the facility would never close. Catia's recent closure is, of course, only one step in the direction of alleviating the enormous systemic problems of the Venezuelan prison system, but it is hopefully a first step. Having eliminated a potent symbol of the system's defects, the Venezuelan authorities still face the real test of eradicating them

in substance.

Human Rights Watch/Americas visited eleven Venezuelan prisons during a three-week mission to the country in March 1996. Our inspections of these facilities, in addition to our discussions with numerous government officials, academics, representatives of nongovernmental organizations and prison inmates, convinced us that a thorough reform of the Venezuelan prison system is urgently required. The government initiatives undertaken since our visit, although some of them are encouraging, are insufficient to remedy the system's massive defects. Moreover, the inauspicious history of prison reform in Venezuela counsels against an incremental, piecemeal approach. Given the seriousness of the problems at issue and the need to resolve them without delay, we urge the government to formulate a national emergency plan for the amelioration of the prison system.

The conditions of Venezuela's prisons violate both Venezuelan law and international human rights standards binding on Venezuela. One fundamental problem is that the country's prisons are dangerously overcrowded, housing over 24,000 inmates in facilities designed for just over 15,000. Some facilities, including Sabaneta and Ciudad Bolívar, among others, contain several times the number of prisoners they were built to house. Because space is at such a premium, inmates routinely sleep two or three to a bed, or even on passageway floors. The overcrowding at Sabaneta is so acute, in fact, that a number of prisoners are forced to sleep in hammocks strung up in the air in narrow pipe-access passageways between corridors of cells. Further exacerbating the situation at Sabaneta and other prisons is the fact that available space is unevenly distributed: prisoners with power or money generally obtain roomier quarters for themselves while their poorer, weaker fellows share what remains.

Compounding the overcrowding crisis is the fact that nearly three-quarters of Venezuelan prisoners have not been convicted of any crime and should not, in principle, even be detained. There are two basic reasons why Venezuelan prisons hold such disproportionate and unjustifiable numbers of unsentenced prisoners. First, most criminal defendants are incarcerated rather than granted provisional liberty while their prosecutions are pending, violating binding international standards that require that pretrial release generally be granted. Second—because the justice system is inefficient, overwhelmed, and politicized; because criminal proceedings are conducted under an antiquated procedural code; and because prisoners lack access to effective legal counsel and, frequently, even lack physical access to the courts—criminal cases in Venezuela typically drag out for years. Particularly when defendants are detained, this undue delay violates binding international standards requiring that criminal proceedings be completed in a reasonable time. Although reform of the judicial system and of the code of criminal procedure is currently under discussion—and will hopefully lead to important improvements—the existing situation is terribly abusive.

Venezuela's prison overcrowding, in conjunction with other ills, exacts an intolerable individual cost. Most fundamental is the cost in lives. According to official statistics, 207 prisoners were killed and 1,133 prisoners were injured in Venezuelan prisons in 1996—in other words, an weekly average of four prisoners killed and more than twenty injured. Facilitating this epidemic of violence are weapons of all types, including knives, machetes, and pistols; even grenades are occasionally found in the prisons. In one facility that Human Rights Watch/Americas visited, prisoners displayed weapons openly: they walked around the prison grounds with long machetes in their hands or home-made firearms stuck in their waistbands. In other prisons where inmates' weapons were hidden, their numerous wounds and scars remained visible, attesting to the constant violence.

In this harsh environment, many inmates profit from exploiting and abusing others. A constant refrain among prisoners we met was "only the strong survive." The strongest and most powerful prisoners eat well, live in more comfortable surroundings, make money off others and have others do their bidding. In contrast, the weakest and least powerful prisoners suffer all of the worst deprivations of prison life. They sleep on the floor in crowded passageways; they clean other prisoners' cells; their belongings are stolen; they are mistreated, beaten, and raped. Often this violence and extortion is gang-related. The traffic in arms, as well as the prisons' substantial drug traffic, is generally controlled by

gangs; the large amounts of money at stake encourage violent gang clashes.

Abetting this prisoner-on-prisoner violence and exploitation is the absence of a rational system of prisoner classification. Venezuelan prisons mix unsentenced prisoners with sentenced ones, healthy prisoners with sick ones, and first-time petty offenders with murderers and rapists. Indeed, in one of the most glaring violations of classification norms, juvenile prisoners mix with adults at La Planta prison in Caracas. Representatives from Human Rights Watch/Americas spoke to one young inmate who, when he was seventeen years old, was viciously raped at La Planta prison by a group of older prisoners.

Rather than continually risk their safety, some prisoners try to retreat from the dangerous prison environment. Nearly every facility we visited had one or more groups of "refugees": prisoners who are weak, old, or otherwise unable to live with the general prison population. Such prisoners abandon the regular cellblocks to live in ad hoc areas of refuge-often converted classrooms, administrative rooms, and disciplinary cells-and often mixed together with prisoners in disciplinary segregation. For such prisoners, greater security comes at the cost of much greater overcrowding, worse conditions, and little or no access to recreation and other activities.

The prisons' lack of safety is the direct result of their lack of security staff. At several prisons that Human Rights Watch/Americas visited, there was only one guard on duty for every 150 or more prisoners. Given these proportions, meaningful control of the prison population is sporadic at best. Guards, moreover, are untrained, low-paid, and, in consequence, too often corrupt. Their interest in profiting from their contacts with prisoners-by facilitating cell transfers, permitting visits, turning a blind eye to contraband-severely interferes with their ability to manage their formal responsibilities.

The Ministry of Justice, recognizing the inability of its existing civilian staff to maintain adequate control over the prison population, has lately increased the military's presence in the prisons. In December 1994, after a year of appalling prison violence, the ministry called in the National Guard to ensure the internal security of seven Venezuelan prisons. (The National Guard, a branch of the armed forces within the Ministry of Defense, is normally responsible only for ensuring the prisons' external security.) Although since then the extent of military intervention has varied over time and among prisons, the existence of any military control over the prisons is extremely worrisome.

In the course of our prison inspections, Human Rights Watch/Americas discovered rampant physical abuse of prisoners by the members of the National Guard. Prisoners described how members of the Guard beat them, kicked them, or hit them with sabers on little or no provocation. Not only did countless prisoners report such abuses, their complaints were corroborated by abundant physical evidence. We saw scores of prisoners with bruised and bleeding buttocks, attesting to the wholesale nature of the punishment meted out by members of the National Guard. In the infirmaries of several prisons, moreover, we met prisoners who had been badly beaten or shot by members of the Guard.

Overall, the National Guard's approach to its expanded prison duties reflects its status as a military force. In military fashion, it has "occupied" the prisons, intimidated the prison population, and imposed its authority through the frequent application of brute force. The most deadly recent proof of its unsuitability for work in the prisons was provided in October 1996, when a fire caused by members of the Guard killed twenty-five trapped inmates in La Planta prison.

Venezuela's prison law recognizes the military's inherent unfitness for prison duties by requiring that the prisons remain under civilian authority and by permitting military intervention only in "exceptional" circumstances. Were there any doubts about the wisdom of this general rule, the National Guard's shameful record of abusing prisoners should have eliminated them. As numerous persons interviewed by Human Rights Watch/Americas emphasized, the job of prison guard is simply not an appropriate military function.

Rather than look to the National Guard for support that it is ill-equipped to provide, the Ministry of Justice should respond to Venezuela's epidemic of prison violence by hiring more civilian guards. Although the ministry is undoubtedly prompted to rely on the services of the military as a means to conserve scarce fiscal resources, it has an overriding obligation to restore order to the prisons without violating prisoners' basic right to be free of physical violence.

On this point, it should be noted that the Public Ministry (Fiscalía General de la República) is also responsible for protecting prisoners from physical abuse. Employing fifteen prison prosecutors who monitor prison conditions and, in principle, receive prisoners' complaints of abuse, the ministry has the power to initiate the criminal prosecution of public officials who violate prisoners' rights. The extent to which it exercises this power, however, is open to question. In discussions with representatives of Human Rights Watch/Americas, officials within the Public Ministry claimed that many such prosecutions were pending, but they were unable to name a single specific case of a public official successfully prosecuted for abuses committed against a prisoner. Notably, the most deadly of Venezuelan prison abuses—including the 1992 Catia prison massacre and the 1994 Sabaneta prison massacre—have not resulted in a single criminal conviction, although criminal proceedings are still formally pending in those cases. As Human Rights Watch/Americas and others have previously described, procedural aspects of Venezuelan law, particularly the *nudo hecho* proceeding, often delay prosecutions enormously and thus contribute to impunity for official abuses. Also, as in the Sabaneta case, the use of military tribunals in cases involving abuses against prisoners greatly increases the likelihood of impunity, given that such tribunals lack judicial independence and impartiality. For that reason, Human Rights Watch/Americas welcomes the Supreme Court's recent ruling in the La Planta fire prosecution, which resolved a jurisdictional conflict between military and civilian courts in favor of the latter.

To their credit, officials within the Public Ministry have been significantly more diligent in monitoring and reporting on the poor physical condition of many prisons, and have conducted numerous prison inspections. As Human Rights Watch/Americas observed during its March 1996 mission, many prison facilities are physically deteriorated, unsanitary, and in need of repair, although a few remodeled facilities have markedly better conditions. Sporadic running water, broken toilets, clogged drains, dangerous webs of electrical wiring, crumbling walls, unlit interior corridors, and unhygienic kitchens were among the common problems we found. Areas within some facilities lacked functioning toilets and running water, forcing inmates to defecate in buckets or on newspaper and then to throw their waste out the window. Moreover, the prison authorities' failure to maintain the physical infrastructure of their facilities was matched by their failure to supply prisoners with necessary material goods. Left to provide their own mattresses, bedding, clothing, and, to a lesser extent, food, Venezuelan prisoners must rely on their families for financial assistance. Prisoners lacking outside support, known as *fritos*, are often forced to work for other prisoners, in what can amount to a degrading form of servitude.

The lack of provision of basic goods and services in the prisons extends to medical care, which is rudimentary at best. The Ministry of Justice, in a 1995 study, characterized the state of medical care in the prisons as deficient to the point of collapse. Similarly, the Subcommission on Prison Matters, in a 1996 summary of the previous year's conditions, stated that provisions for medical assistance were "notably absent" from Venezuelan prisons. Consistent with these reports, Human Rights Watch/Americas representatives received numerous complaints about deficiencies in medical attention, most frequently that infirmaries lacked even the most basic medical supplies and that guards did not permit access to medical staff. At some prisons, inmates displayed exposed intestines or festering wounds for our inspection while describing the difficulty of obtaining treatment. At all of the prisons we visited, medical staff was exceedingly scarce. Even large facilities typically had only one or two nurses on duty, with doctors available part-time, sometimes only a few hours each week. Finally, conditions for mentally ill prisoners at the facilities visited by Human Rights Watch/Americas were appalling, and psychological treatment appeared to be nonexistent.

These deficiencies violate Venezuelan law, which requires that prisoners be provided basic medical care, and

contravene international standards calling for daily medical supervision of prisoners who are sick or who complain of illnesses. As with the prisons' other failings, the lack of medical attention forces inmates to depend on family members and friends to provide them with medical supplies.

Given the importance of outside support, the liberal visiting policies of Venezuelan prisons are of great benefit to the prison population. Most prisons have two visiting days per week, one of which is reserved for conjugal visits. Although friends and family members must sometimes wait in long lines before entering the facilities, once inside they generally enjoy extended visits with prisoners. Notably, all visits are contact visits, with no barriers to prevent physical contact between prisoners and visitors.

Unfortunately, guard mistreatment of visitors, in the form of physical abuse, disrespect, and financial extortion, is a serious problem. The strongest complaints we received on this topic involved searches of visitors, especially vaginal and strip searches. Prisoners described how their family members were subjected to extremely intrusive searches as the cost of a visit, asserting that the purpose of such searches-and their inevitable effect-is to humiliate the visitor. Despite the fact that searches of women visitors are conducted by female staff, and that prison authorities have legitimate security concerns to motivate such searches, the wide discretion permitted authorities in conducting such searches is inconsistent with international standards protecting personal privacy and barring degrading treatment. As the Inter-American Commission on Human Rights has ruled, intrusive searches of prison visitors have a high potential for causing shame and distress and therefore merit a correspondingly stringent degree of oversight and control.

A final problem affecting almost the entire Venezuelan prison population is idleness. The bouts of violence that characterize Venezuelan prisons break up what is otherwise unrelenting boredom. In general, prisoners have few constructive ways to occupy their time. Work and study opportunities are extremely scarce and, in some prisons, even recreational activities are limited. Not only does the lack of such opportunities frustrate prisoners' attempts at rehabilitation, it bars them from gaining early release. Under the "two for one" law (Ley de Redención de la Pena por el Trabajo y el Estudio), prisoners are able to reduce their sentences by one day for every two days of work or study. Without access to work or study opportunities, however, many prisoners are unable to satisfy the terms of the law.

Women prisoners, who make up only 4.5 percent of the Venezuelan prison population, are subject to most of the deficiencies affecting men prisoners, though to a lesser degree. On the whole, women's facilities tend to be cleaner, less overcrowded and better maintained than the men's facilities, with proportionally larger staffs, little violence, and greater work and recreational opportunities. Civilian staff at the women's facilities have friendlier relations with prisoners than do staff at any of the men's prisons. At several facilities, for example, we saw staff and prisoners talking and laughing together.

On the other hand, women prisoners face particular difficulties in their relationships with their families. Because tremendous stigma still attaches to women's incarceration, the families of women prisoners are likely to find it hard to accept the fact of their imprisonment. As a result, women prisoners tend to receive fewer visits than do men. Many women prisoners receive no family support; indeed, they often support children living both inside and outside of the prison. Under Venezuelan law, women can keep their infants with them in prison until age three.

Relevant to maintaining family ties is the issue of conjugal visits. In contrast to the permissive conjugal visiting policy extended male prisoners, women were until recently wholly denied such visits. In mid-1995, after extensive debate on the issue, the women's prison in Caracas began conducting a pilot program of allowing women prisoners strictly regulated conjugal visits. The visitor must be the woman's spouse or legally registered common-law husband; the woman must have an excellent conduct record while incarcerated; both partners must undergo an initial battery of tests, including HIV tests and psychiatric evaluations, as well as periodic testing for venereal disease; and the woman must agree to use birth control. The effect of these controls is to bar all but a handful of women from benefiting from the

new policy. In the view of Human Rights Watch/Americas, such dramatically different treatment of women compared to men with regard to the granting of conjugal visits constitutes discrimination on the basis of sex, prohibited by several international human rights instruments whose provisions are binding on Venezuela.

Such is the general state of Venezuelan prisons. Within this overall picture, of course, a few facilities merit special mention. Representing one extreme is the Ciudad Bolívar prison, located in southeastern Venezuela. This extremely overcrowded facility was a beehive of construction when the Human Rights Watch/Americas delegation visited it. Prisoners had taken over all control of the facility's physical infrastructure and, using cinder blocks that they paid guards to allow in, they were erecting makeshift shelters in formerly open areas. Open sewage canals cut through various parts of the facility, and webs of electric wires ran haphazardly through prisoners' living quarters, a clear fire hazard. The prison was essentially being transformed into a crowded shantytown, with "*ranchitos*," as the prison warden described these shelters, scattered about the prison grounds. Even the exterior hallways of certain cellblocks were being divided up in small cells. Despite this construction, overcrowding was such that many prisoners were still forced to sleep in hammocks or on the floor in open areas such as hallways.

The original facility consisted of two two-story cellblocks for men, plus a one-story women's annex a short distance away. Approximately four years ago, however, inmates destroyed the wall separating the women from the men, and the women's annex was incorporated into the larger men's facility. Some forty women prisoners, some with babies, mingled with a men's population of over 1,000. Not a guard was to be seen within the prison. Men carrying weapons fought over buckets of food. A prisoner lay by the gate of the facility paralyzed, with a bullet lodged in his spine from a recent shooting. What was finally most striking about the facility was the absolute abandonment of control by the prison authorities: the root cause of its other symptoms.

In contrast to this picture of disorder and neglect, the women's annex of Sabaneta prison in Maracaibo was notable for its excellent state of repair, cleanliness, and safety. Built in 1989, parts of the annex seem more like an apartment complex than a prison. Many women lived in single rooms with wooden doors, rather than in barred cells. Rooms, many of which boasted fresh paint, were clean and orderly. The facility had a spacious library with an amply supply of books, an attractive visiting area filled with plants and big park benches, several classrooms, and a church. There was no overcrowding and no reports of violence. Women were busy working in the facility's several workshops, taking classes, exercising in the large recreation yard, and caring for their children. The only serious problem that the Human Rights Watch/Americas delegation found at the facility was a severe lack of medical supplies.

The gap between these two facilities is enormous, and it will obviously not be easy for the Venezuelan authorities to bring conditions at Ciudad Bolívar and other prisons closer to those existing at the Sabaneta women's annex, or to consistency with the mandates of Venezuelan and international law. Most critically, the project will require a greater allocation of financial resources. But Venezuela's prison crisis cannot be ascribed simply to insufficient funding. The lack of political will and the failure of each government organ to shoulder its share of the burden of improving the system are also to blame. As this report describes, a number of government organs besides the Ministry of Justice bear some responsibility for the predicament of Venezuelan prisoners. The judiciary, and the much-criticized judicial system, are largely at fault for the slow pace of criminal prosecutions and the large proportion of unsentenced prisoners. The National Guard is guilty of physically abusing prisoners and of harassing their family members. The feeble efforts of the Public Ministry in prosecuting such abuses allow them to continue. State governments have largely failed to contribute to reforms.

Faced with scarce financial resources, mounting public concern over crime, and an uneasy political landscape, the Venezuelan authorities responsible for reforming the prison system have a daunting task ahead of them. But no set of constraints—neither fiscal nor political nor organizational—could justify the disastrous conditions of the Venezuelan prison system. As this report describes, the prison situation requires urgent attention. Its current problems are the result

of many years of neglect, during which other national priorities were accorded precedence in the allocation of resources. This record of deliberate indifference must end. While the current government has articulated a strong desire for prison reform, and has taken certain concrete steps in the direction of reform, it is time for it to demonstrate the necessary political will to formulate and implement the measures required.

RECOMMENDATIONS

Human Rights Watch/Americas welcomes the steps being taken by the Caldera administration to create a more humane prison system, but urges that more aggressive measures be implemented. To establish a firm foundation for such measures, we urge the government to formulate a national emergency plan for the amelioration of the prison system. The following are our most pressing recommendations for reform, which we believe merit inclusion in such a plan:

Overcrowding and the Detention of Unsented Prisoners

| The Judicial Counsel, the executive, and the National Congress should take steps to remedy the serious defects of the criminal justice system and, in particular, to speed up the pace of criminal proceedings. As part of this effort, the National Congress should seriously consider the current proposal to rewrite the code of criminal procedure. Although Human Rights Watch/Americas has not reviewed the Organic Code of Criminal Procedure proposed by the Legislative Commission of the Congress, we are encouraged by the general outlines of the proposal. In particular, we view the substitution of oral, public trial proceedings for the current time-consuming exchange of written documents as a step forward.

| The National Congress should amend pretrial release legislation to expand the possibilities of such release. In addition, judges should apply existing pretrial release laws with greater frequency.

| Judges should consider alternatives to prison for offenders who pose a limited risk to society, such as women convicted of non-violent crimes.

Prisoner-on-Prisoner Abuses

| The Ministry of Justice should regain effective and consistent control of all of the prisons under its administration. In order to do so, it should hire the necessary quota of additional security staff. Sabaneta prison, Ciudad Bolívar prison, and Tocarón prison are in particular need of more staff.

| Prisoners should never be assigned internal security responsibilities or be placed in positions of power over each other.

Guard Abuses

| In accordance with the Venezuelan prison code, the prisons should be returned to the control of civilian guards. The National Guard should be restricted to ensuring the external security of facilities and should have no contact with prisoners, except in emergencies. If National Guard intervention is required because of exigent circumstances such as a prison riot, members of the National Guard should treat prisoners in accordance with international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment. The training provided members of the National Guard should specifically explain that they are prohibited from opening fire on escaping prisoners, and that the so-called *ley de fuga* ("flight law") does not exist in Venezuela.

| Prosecutors in the Public Ministry should thoroughly investigate all allegations of physical abuse of prisoners by members of the National Guard or by civilian guards and, where the allegations are found to have merit, should vigorously prosecute them. To facilitate effective prosecutions, the legislature should review and reform all procedures—such as the procedure known as the *averiguación de nudo hecho*—that unnecessarily delay the prosecution of public officials.

| As in the case of the deadly fire at La Planta prison, members of the National Guard charged with abusing prisoners should be prosecuted in civilian courts. As a matter of law, military court jurisdiction over crimes involving civilian defendants or victims should be abolished, in recognition of the inherent difficulty of securing impartial justice in such cases.

| The Ministry of Justice should train its staff of civilian guards regarding Venezuelan and international norms mandating the humane treatment of prisoners, and should caution them that guards engaging in unauthorized disciplinary sanctions, corrupt practices, or other abuses will be punished accordingly.

Physical Conditions and Provision of Care

| The Ministry of Justice should renovate the physical infrastructure of those prisons that have fallen into severe disrepair. In particular, it should begin to rebuild Sabaneta prison, Ciudad Bolívar prison, and El Dorado prison.

| The Ministry of Justice should ensure that all prisoners are provided basic necessities including mattresses and bedding, food, potable drinking water, and sanitary supplies.

| The Ministry of Justice should take immediate steps to correct the severe deficiencies in the provision of medical care in the prisons, by hiring more doctors and providing each prison with the necessary stock of basic medical supplies.

| Prisoners with contagious diseases should be segregated from healthy prisoners and given appropriate medical treatment.

Classification

| As a first step toward the rational classification of the prison population, the Ministry of Justice's welcome efforts to computerize the prison system, and to record the relevant data of all incoming and existing prisoners, should be expanded.

| The Ministry of Justice should remove all juvenile prisoners from La Planta prison in Caracas and place them into secure juvenile detention centers.

| The Ministry of Justice should separate sentenced prisoners from unsentenced prisoners.

| The Ministry of Justice should open a separate annex for women prisoners at the prison of Ciudad Bolívar and remove the women from the men's prison.

| As it did with regard to the recently-inaugurated Yare prison annex, the Ministry of Justice should separate nonviolent offenders from more dangerous prisoners and place them in appropriate minimum security facilities. It should also consider expanding the use of alternatives to incarceration for nonviolent prisoners.

Rehabilitation and the Reduction of Idleness

| The Ministry of Justice, in conjunction with the independent government agency on prison labor (Instituto Autónomo Caja de Trabajo Penitenciario), should try to expand prisoners' work and educational opportunities. In particular, it should strive to create jobs, training courses, and study programs for prisoners that would help facilitate their reintegration into society upon release.

| All prisoners should be permitted at least one hour of outdoor exercise per day. In general, the amount of time prisoners in restrictive facilities spend locked inside their cells should be decreased.

Contacts with the Outside World

| To encourage visits by prisoners' family and friends, prison officials and members of the National Guard should treat prison visitors with respect. Verbal and physical harassment, extortion, and other abuses against visitors should be punished.

| The Ministry of Justice should formulate a uniform national policy covering intrusive searches of visitors, particularly strip searches and vaginal searches. Such a policy, which should balance the need for prison security against visitors' rights to privacy and humane treatment, should include appropriate safeguards against arbitrary or discriminatory searches. Wherever possible, less intrusive methods such as metal detectors should be employed for such searches.

| The Ministry of Justice should make an effort to place sentenced prisoners in facilities as close as possible to their places of residence in order to facilitate family visits. In particular, it should not transfer prisoners to isolated El Dorado prison from other facilities all over the country as a disciplinary sanction. To the extent that El Dorado is used at all, free regular bus service should be provided to prisoners' family members traveling from Ciudad Bolívar to the facility.

Treatment of Women Prisoners

| The Ministry of Justice should institute a uniform conjugal visit policy, one that does not discriminate against women prisoners, and should institute that policy in every facility in which women are held.

| Members of the National Guard should be barred from all contact with women prisoners.

Monitoring of Conditions

| The Public Ministry should bolster its program of prison inspections by considering taking legal action where conditions are abusive.

| In accordance with Venezuelan law, judges should visit prisons regularly to interview prisoners and monitor their treatment. The Ministry of Justice should take steps to ensure the safety of such judges.

| The Ministry of Justice should promulgate a uniform national policy guaranteeing representatives of nongovernmental organizations regular access to the prisons.

II. OVERVIEW OF THE PRISON SYSTEM

Venezuela's prisons held a combined inmate population of 24,765 at the end of 1996, of whom 1,155 were women.

With a total national population of just over twenty-one million, Venezuela has an incarceration rate of roughly 117 prisoners per 100,000 inhabitants, not including persons held in local police lockups or other more short-term places of detention. While the country thus has one of the highest rates of incarceration in South America, its rate is still much lower than that of many other countries.¹⁹

Venezuela's prison system is distressingly overcrowded. Built to hold just over 15,000 inmates, the system is now at more than 160 percent of capacity. Moreover, this level of overcrowding is nothing new: indeed, the inmate population first reached its present size in 1984.²⁰ Prisoner numbers increased steadily during the 1980s, more than doubling over the course of the decade and peaking at over 30,000 in 1991.²¹ In contrast, during the 1970s, the prison population only fluctuated between 13,000 and 15,750 inmates, and it had fallen to 12,600 by 1980.²²

While the prison population expanded rapidly, available prison space did not. The combined design capacity of all prisons opened during the 1980s was 4,820 inmates, not nearly sufficient to cover the increased demand over that same period.²³ No new prisons were built from 1988 until 1996. Only a few months ago, the first new facilities in almost a decade opened as annexes to Yare and El Rodeo prisons.²⁴ Minister of Justice Henrique Meier has stated that fifteen additional prisons are needed to ease overcrowding and that, given the resources, they could be built in a year and a half.²⁵ But constructing fifteen prisons would cost approximately one hundred billion bolívars (approximately US \$214 million), far more than the two billion bolívars (approximately US \$ 4.2 million) found in the national prison construction fund.²⁶

Three of Venezuela's thirty-two prisons are located in the Caracas area and six in neighboring Miranda state; together, these nine facilities hold approximately one-third of the country's total prison population. Human Rights Watch/Americas visited four prisons in this region: the Retén de Catia, a facility notorious for its high level of violence, which was closed in January 1997; the National Institute of Women (Instituto Nacional de Orientación Femenina, INOF); the Internado Judicial Capital (known as El Rodeo); and the El Paraíso Reeducation Center (known as La Planta), designed as an experimental facility and the site of Venezuela's first prison administration training institute. Six prisons are located in Venezuela's central region, which includes the states of Aragua, Carabobo, and Guárico; of these, Human Rights Watch/Americas inspected the Aragua prison (known as Tocarón); the Carabobo maximum security prison (known as the Carabobo Máxima); the Venezuelan General Penitentiary, located in San Juan de los Morros; and the Valencia National Penal Center (known as Tocuyito) together with its women's annex. The Andean states have a total of five prisons; western Venezuela has four; and eight are located in the eastern portion of the country, a broad area extending from the Isla de Margarita in the Caribbean Sea to the Gran Sabana on the Brazilian and Guyanese borders. Human Rights Watch/Americas inspected three prisons from these areas: Maracaibo prison (known as Sabaneta) and its women's annex, located in the western state of Zulia; Ciudad Bolívar prison, in southeastern Venezuela; and the Guayana Penal Center (known as El Dorado), an isolated prison complex outside of the mining town of El Dorado, 200 miles southeast of Ciudad Bolívar and forty miles from the Guyanese border.

Types of Prisons

Venezuelan law theoretically distinguishes between facilities designed for sentenced prisoners and those for persons detained awaiting trial. The Venezuelan Penal Code mandates that sentenced prisoners serve out their terms in a penitentiary, a national prison, or a local penal center, depending on the type of sentence they receive.²⁷ Other facilities, called *internados judiciales* or *retenes*, are designated primarily for unsentenced detainees.²⁸

There is usually little relation between the formal designation of a facility and the type of inmates it holds. Most prisons, whatever their designation, accept both sentenced and unsentenced prisoners in apparently haphazard proportions. The usual pattern is illustrated by the three national prisons. At two of these facilities, the prisons of Ciudad Bolívar and Sabaneta, there are more detainees than sentenced prisoners; at the third, Trujillo National Prison,

detainees constitute over 45 percent of the inmate population. In some facilities, nonetheless, the inmate population does to a certain extent reflect the official designation of the prison. At the Venezuelan General Penitentiary, for example, over 98 percent of the inmates have been sentenced.

As a disciplinary sanction, prisoners may be transferred to one of two facilities: the El Dorado prison and the Carabobo Máxima. The Carabobo Máxima was built in 1983 as the country's highest security prison; its conditions are extremely restrictive. El Dorado prison, a much older facility whose physical structure has fallen into severe disrepair, has lately been singled out as the destination of choice for the disciplinary transfer of "problem" prisoners, particularly leaders of protests and hunger strikes.²⁹ Because of El Dorado's extreme isolation-it is located in a dense jungle on the southeastern edge of the country-prisoners are loath to be transferred there.

Responsible Authorities

Venezuela's prisons are administered by the Ministry of Justice, which manages the system's financial resources and employs prison staff.

Ministry of Justice officials concede that the prison system is inadequately funded.³⁰ For all of its responsibilities-including prisons and the judicial police-the ministry receives less than 1 percent of the national budget. The bulk of this funding goes to the judicial police, which handle criminal investigations.³¹ In 1995, the government spent Bs. 4,579,200,000 (approximately US \$27 million) on prison expenses, not including money spent on maintaining or repairing the physical infrastructure of the prisons. In 1996, because of Venezuela's high rate of inflation, this amount was increased to Bs. 5,880,800,00 (approximately US \$20.3 million).³² The ministry's two largest prison expenses were food and personnel costs.

In June 1995 the government established a National Prison Fund (Fondo Nacional para Edificaciones Penitenciarias) to finance the construction and renovation of the prison infrastructure. This fund, administered independently from the Justice Ministry's budget, is severely underendowed: indeed, according to the Minister of Justice, it is fifty times smaller than needed.³³

Besides bearing the costs of the prison system, the Justice Ministry is responsible for staffing the prisons. Instability and frequent job transfers are characteristic of every level of the ministry, from the minister himself down through the ranks.³⁴ During our visit to Venezuela in March 1996, for example, the minister was replaced, leaving many ministry personnel uncertain about their job tenure. In addition, in the eleven prisons visited by Human Rights Watch/Americas, only one warden had occupied his position for more than a year; at several facilities, the wardens had been working in their jobs for less than a month.³⁵ Frequent transfers and firings are viewed as a primary means of fighting the endemic corruption of prison authorities, but this constant turnover makes it difficult to sustain reform efforts.

The marked lack of continuity between people and responsibilities does mean, however, that new authorities were often frank and honest in their appraisals of the prison situation or of a given facility. It appeared that since they were not personally responsible for creating the conditions they are faced with, they felt less constrained in criticizing them. On the other hand, the lack of continuity means that structural reforms seem to hover on an ever-distant horizon. Every incoming minister of justice condemns the prison situation and calls for change, but the needed reforms never materialize. Instead, a new minister of justice arrives in due time, and the cycle begins anew.³⁶

Besides this temporal shifting of responsibilities, another complicating factor is that a number of other public organisms bear a share of the blame for the predicament of Venezuelan prisoners. The judiciary, and the much-criticized judicial system, are at fault for the slow pace of criminal prosecutions, which have filled the prisons up with unsentenced detainees. The National Guard, as described below, is abusive to prisoners. The lack of effective

prosecution of such abuses is due to the weak efforts of the Public Ministry. This list could be expanded, but the point is that while it is refreshing in Venezuela to find that almost everyone—from the president to the minister of justice to the state governors—acknowledges the disastrous state of the prisons, it is discouraging to find that no one is willing to shoulder the burden of reforming them.³⁷

Indeed, rather than assert greater control over the prison system, in recent years the Justice Ministry has undertaken to hand off some of its prison responsibilities to other governmental entities. Beginning in 1994, a year of shattering prison violence, it has accorded increased powers with regard to prisons to state governments and to the national military.

Decentralization

The Ministry of Justice has been attempting to devolve administrative responsibility for the prisons on to state governments. To a skeptical observer, this recent effort to relinquish control of the prisons might appear opportunistic rather than responsible: the horrendous conditions of Brazilian prisons, among others, demonstrate that state government control over the prison system is no panacea.³⁸ Yet many prisons experts regard the initiative hopefully. Elio Gómez Grillo, a noted Venezuelan penologist, argues that decentralization could encourage a healthy rivalry between state governments in maintaining their prisons, which would redound to the benefit of prisoners.³⁹ A similar optimism is reflected in a 1996 report on the prison situation released by the Chamber of Deputies' Subcommittee on Prison Matters (Sub-Comisión de Asuntos Penitenciarios de la Cámara de Diputados), which declares that the decentralization effort "could be the beginning of a real reform of the prison system."⁴⁰

If prison decentralization is implemented as planned, one beneficial effect should be a reduction of prisoner transfers. Prisoners should largely remain in local facilities rather than being transferred to out-of-state prisons far from their families. Commenting on this aspect of the policy, Ministry of Justice officials asserted that if states are responsible only for local prisoners, state officials will feel a greater stake in creating safe and humane prisons.⁴¹

The decentralization process began by presidential decree in 1993.⁴² By March 1996, the Justice Ministry had signed prison decentralization accords with the governors of fifteen states. Out of the total of nineteen states with prisons, only the states of Aragua, Carabobo, Guárico and Miranda had not signed accords, though Aragua had signed a preliminary decentralization agreement.⁴³

The accords set out a complicated system of shared responsibilities. Notably, states are charged with "the supervision, monitoring, and control of all activities that take place in the Penal Institution."⁴⁴ The Ministry of Justice, however, remains primarily responsible for prison costs, including personnel costs, except that the agreements encourage states to pay prison staff additional salary premiums. For some tasks, such as the repair and maintenance of the prison infrastructure, the accords are vague: they say that state governments "will collaborate" with the Ministry of Justice to handle them. Particularly in light of the severe underendowment of the national prison construction fund, ministry officials are hopeful that states will bear a share of the cost burden.⁴⁵

Notwithstanding the effort that has gone into negotiating the decentralization accords, their legal effect is unclear. Under the national prison law, the Ministry of Justice is responsible for "the organization and functioning" of the prison system.⁴⁶ A high-level Ministry of Justice official acknowledged that the accords, which are essentially contracts between state governors and the ministry, could in no way supercede this law. Nonetheless, she said, the accords represent "a sort of moral obligation on the part of the states. They are a first step toward greater state control of the prisons."⁴⁷ In that respect, she viewed them as an important innovation, regardless of their legal validity.

Militarization

The National Guard, a branch of the armed forces within the Ministry of Defense, is charged with providing the prisons' external security. (At Catia prison, Caracas's Metropolitan Police used to serve this function.) In late 1994, because of unceasing prison violence, seven Venezuelan prisons were "militarized" at the request of the Ministry of Justice. The affected facilities were Sabaneta prison, in Zulia state; Tocuyito prison and the Carabobo maximum security prison, both in Carabobo state; El Rodeo prison, just outside of Caracas; Tocarón prison, in Aragua state; the Metropolitan prison of Yare; and the Venezuelan General Penitentiary in San Juan de los Morros.⁴⁸ Catia prison was also militarized for brief periods, but the Ministry of Defense showed a marked disinterest in maintaining permanent control over the troubled facility.

What militarization means in practice is that the National Guard assumes responsibility for ensuring the internal security of the facilities. That is, instead of remaining outside the prison walls, members of the National Guard maintain a presence within the prison, although the degree of that presence varies from prison to prison. Some prisons are only "lightly" militarized; others have been essentially taken over by the National Guard. In lightly militarized prisons such as Sabaneta the National Guard enters the prison at roughly ten-day intervals to conduct searches, but otherwise leaves daily management of the prison to civilian staff. In prisons subject to a more intrusive form of militarization, members of the National Guard are regularly stationed within the prison walls, and searches are much more frequent.

Particularly in the heavily militarized prisons, the relationship between the civilian prison administration and the National Guard is often uneasy. National Guardsmen are not subject to the direct control of the prison wardens, who may disagree with their actions but are powerless to restrain them. Among other things, National Guardsmen are allowed to enter militarized prisons and discipline prisoners without the permission of the prison warden. Questioned on the issue, prison wardens stressed that in their view militarization should only be employed as a provisional, emergency measure. Some wardens pointed out that National Guardsmen have a tendency to commit "excesses" and the warden's only option in such cases is to try to persuade the local Guard commander to restrain his men.⁴⁹

Monitoring of Abuses

Within the Public Ministry, a group of public prosecutors called *fiscales penitenciarios* are specifically mandated to monitor the treatment of prisoners and to prosecute prison abuses. There is approximately one such prosecutor for each state housing prisoners: fifteen total, including two with national jurisdiction. They are supposed to make regular prison visits to monitor conditions and receive prisoners' complaints.⁵⁰ One of the common complaints we heard, however, is that prosecutors exercise this element of their mandate to little effect. Prisoners assert that they rarely enter the prisons and, when they do, they take no concrete action to stop abuses.

As one part of this monitoring function, the prison prosecutors have conducted numerous prison inspections, after which they release reports detailing the substandard conditions found and recommending reforms.⁵¹ Moreover, in particular cases of abuse prosecutors are empowered to initiate criminal proceedings against prison staff and other public officials.

Finally, judges too have a formal role in monitoring prison abuses. According to the Code of Criminal Procedure, judges are supposed to visit local prisons every fifteen days to interview prisoners whose cases they are handling.⁵² In practice, however, judges have almost entirely abdicated this monitoring function. The one judge whom we did encounter in a prison, who was visiting Sabaneta, told us that he was one of nineteen criminal judges with cases in that prison but that the others never visit. According to him, judges do not feel safe in the prisons because they have suffered violent attacks there in the past.⁵³

The Prison Population

The Venezuelan prison population is largely young, poor, and male. Approximately 70 percent of prison inmates are under twenty-five years old, and almost all inmates are from impoverished origins.⁵⁴

Prisoner Classification

Venezuelan penal law requires prison officials to classify all prisoners sentenced to more than one year of imprisonment and strongly encourages the classification of other sentenced prisoners. The legislation provides that each inmate undergo a period of observation upon entry to the system and then be assigned to a section of the prison according to the crime for which he or she is sentenced, his or her previous criminal record, behavior exhibited during observation, state of health, and other characteristics.⁵⁵ Pretrial detainees are supposed to be classified according to their age, prior detention record, level of education and "cultural development," state of physical and mental health, general personality characteristics, and profession or employment.⁵⁶ Women must be held in special facilities or entirely separate sections of mixed prisons, and inmates aged twenty-one or younger must be placed in juvenile centers.⁵⁷

International law echoes a number of these classification rules. The International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights require the separation of accused persons from convicted persons except in exceptional circumstances.⁵⁸ Both of these treaties, as well as the Convention on the Rights of the Child, require juveniles to be separated from adults, a basic requirement of juvenile justice reiterated in the U.N. Standard Minimum Rules for the Treatment of Prisoners and the U.N. Standard Minimum Rules for the Administration of Juvenile Justice (known as the Beijing Rules).⁵⁹ The U.N. Standard Minimum Rules call for the detention of men and women in separate institutions "so far as possible"; when men and women must be detained in the same institution, they provide that "the whole of the premises allocated to women shall be entirely separate."⁶⁰ Finally, international standards call for the segregation of inmates suffering from infectious diseases to prevent the spread of those diseases to the general inmate population.⁶¹

Despite these national and international standards, however, the only classification actually practiced in Venezuelan prisons is the separation of men and women. Astonishingly, even this basic protection for women inmates does not exist at the prison in Ciudad Bolívar, where some forty women share living quarters with over 1,000 male prisoners.

In the course of our investigation, Human Rights Watch/Americas noted the following violations of Venezuelan and international law with respect to the classification of prisoners:

| Some forty juvenile inmates under the age of eighteen were held together with adults at the La Planta facility in Caracas. At all other facilities we visited, we found inmates between the ages of eighteen and twenty-one housed with the general prison population, a practice that violates Venezuelan law.

| Most prisons made no attempt to separate accused from sentenced prisoners. The prison at El Rodeo was a notable exception. At that facility, the warden assigns sentenced prisoners to one of two cell blocks and those awaiting sentence to the three other cell blocks. Separation of sentenced from accused prisoners at El Rodeo had only begun a few months before our visit. Similarly, Tocuyito prison in Valencia housed sentenced prisoners in two newly-renovated cell blocks some distance away from the cell blocks holding accused prisoners.

| The segregation of those with infectious diseases from the rest of the prison population is sporadic, since most prisons do not subject incoming prisoners to a medical examination. Even where some form of segregation on this basis is practiced, it may be insufficient to protect the health of inmates. At the Venezuelan General Penitentiary in San Juan de los Morros, for example, we were told that inmates with tuberculosis shared quarters in the infirmary with all other sick inmates. Similarly, at Aragua prison, known as Tocarón, we saw prisoners who were said to have tuberculosis mixed

with other sick inmates in a one-room infirmary. Since no doctors were to be seen at either facility, we were unable to confirm these reports.

| Classification on all other grounds, such as criminal record or behavior, was virtually nonexistent. At many prisons, authorities leave the decision about where inmates live to the prisoners themselves, allowing the stronger and more violent prisoners to dictate to the weaker. As a result, inmates at many institutions seek refuge in the prison infirmary, punishment cells, or other areas of the prison rather than live in one of the regular cell blocks. The only exceptions to this rule of non-classification by behavior were the "good conduct" wings found in several of the women's facilities.

III. OVERCROWDING AND THE FAILURE OF THE CRIMINAL JUSTICE SYSTEM

National statistics, though striking, do not give a full picture of the Venezuelan system's overcrowding, since many institutions are significantly more overburdened than the national average suggests.⁶² Indeed, while the system as a whole was at 160 percent of capacity, eleven of the country's prisons were up to 200 percent of capacity in March 1996, with the most overcrowded of these prisons holding between three and five times the number of inmates they were designed to house. Among the worst facilities were Sabaneta prison in Maracaibo, which was designed for 800 prisoners but held over 2,300; Mérida's Internado Judicial, which was designed for 150 prisoners but held nearly 600; the Retén de Catia prison in Caracas, which was designed for 750 prisoners but held over 1,800; the Internado Judicial in San Juan de los Morros, which was designed for 250 prisoners but held over 1,000; and the Internado Judicial in Cumaná, which was designed for one hundred prisoners but held over 450.⁶³

International human rights standards are vague regarding the permissible limits of prison overcrowding. Nonetheless, the number of people packed into the most crowded Venezuelan prisons clearly exceeds justifiable maximums, particularly given the violence and dilapidated conditions produced by overcrowding.⁶⁴

Unsentenced Prisoners

Almost 75 percent of the prison population consists of unsentenced prisoners (*procesados*): people whose criminal cases are pending at some stage of Venezuela's slow criminal process. Like overcrowding, this too is a longstanding problem.⁶⁵

Disproportionate numbers of unsentenced prisoners are held in Venezuelan prisons for two reasons. First, most defendants are incarcerated rather than granted provisional liberty while their prosecutions are pending. Although in 1992 a law was passed to facilitate the pretrial release of some prisoners, it has largely not been implemented. Second, criminal cases in Venezuela typically last years.⁶⁶ By all reports, the judiciary is plagued by corruption, undertrained, understaffed and politicized, a combination of flaws that obviously hinders its effective functioning.⁶⁷ Criminal proceedings in Venezuela, conducted under a law that is essentially unchanged since 1926, still follow the traditional inquisitorial model. They rely on written documents, rather than oral testimony, and are divided into discrete stages, some of which may be quite lengthy.

Another obstacle to the speedy provision of justice is the prison system's frequent failure to transport prisoners to court hearings, caused by severe shortages of vehicles and personnel and by rampant corruption.⁶⁸ Similarly, because the prison system is so overwhelmed, and because of frequent inmate transfers among prisons, case files are often lost. An inmate may be transferred, for example, but his case file may stay behind at the original facility, stalling the proceedings. Finally, the Venezuelan courts are in a crisis of overwork: in 1996, for example, Caracas's forty-nine trial-level criminal courts issued rulings in some 16,500 cases. They received approximately 18,000 new cases, however,

creating a deficit of at least 1,500 cases for the year, not including cases for which multiple rulings are necessary.⁶⁹

The resulting lengthy detention of unsentenced prisoners violates international human rights standards.⁷⁰ To begin with, defendants should normally be granted release pending trial. Consistent with the presumption of innocence that all defendants enjoy, Article 9(3) of the International Covenant on Civil and Political Rights (ICCPR) provides in relevant part that: "It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial."⁷¹ In interpreting this provision, the Human Rights Committee of the United Nations has ruled that detention before trial should be used only to the extent it is lawful, reasonable, and necessary. Necessity is defined narrowly: "to prevent flight, interference with evidence or the recurrence of crime" or "where the person concerned constitutes a clear and serious threat to society which cannot be contained in any other manner."⁷² The weighing of the relevant criteria for a finding of necessity requires an individualized determination.

Venezuelan law, both as it is written and as it is applied, does not meet this test. Large categories of prisoners are entirely disqualified from obtaining relief under the terms of the 1992 pretrial release law. Specifically, detainees charged with any of a number of offenses, including drug crimes, car theft, armed robbery, and crimes under the Code of Military Justice, are barred.⁷³ Recidivists—in particular, anyone who has been sentenced to prison time within the ten years preceding the commission of the crime that he is presently charged with—are also barred.⁷⁴ The result is that the large majority of pretrial detainees are not eligible for provisional release. Moreover, many judges are said to be hostile to the idea of pretrial release, leading them to refuse to apply the law even to eligible defendants.⁷⁵

The long delays associated with criminal trials in Venezuela are also, at least in the more extreme instances, inconsistent with international due process norms. In particular, they violate two provisions of the ICCPR, Articles 9(3) and 14(3)(c), which prohibit unreasonably protracted criminal proceedings.⁷⁶ Although the U.N. Human Rights Committee has emphasized that long criminal proceedings must be assessed on a case-by-case basis, in the absence of unusual circumstances it has found that trial proceedings of more than four years constitute a violation of these rights.⁷⁷ Notably, in making this determination, the committee has stressed that "[t]he lack of adequate budgetary appropriations for the administration of criminal justice . . . does not justify unreasonable delays in the adjudication of criminal cases."⁷⁸

The effects of the system's inertia on individual lives is beyond measure. In one notorious case, a man was held twenty-seven years before being acquitted in 1995 of the charges against him; his case files had been archived while he was still incarcerated.⁷⁹ More recently, almost all of the twenty-five inmates killed in the October 1996 fire at La Planta prison were unsentenced. One slain prisoner, Henry Rodríguez Briceño, was reportedly about to be released on bail but had not succeeded in obtaining transportation to court.⁸⁰

During Human Rights Watch/Americas's prison visits, we spoke with numerous inmates who had been detained in terrible conditions for four, five and even six years pending decisions in their cases:

| At La Planta prison in Caracas we met J.S., a pretrial detainee who had spent four years at Catia awaiting a decision in his case. He was finally transferred to La Planta after being beaten so badly that he was taken to the hospital. When we saw him, his arm was in a sling and his abdomen was bandaged. He also showed us scars and wounds all over his body, illustrating every stage of the healing process; they had all been inflicted by inmates at Catia.⁸¹

| R.J., held at the Ciudad Bolívar prison, had been waiting five years, four months for a decision in his case. In that whole period, he only went to court three times, most recently a year and two months before our visit. The prison is so crowded that for the first year and eight months he had to sleep on the floor in a hallway. In late 1992, he built himself a room, which cost him nearly Bs. 15,000 (approximately US\$ 52). As was common, he said, his wife had found another husband.

| V.L., a twenty-two-year-old at Ciudad Bolívar, had been waiting two years, three months for a decision in his case when we met him. He was paralyzed, having been shot in the spine a month previously, and was lying by the gate of the prison on a dirty foam pad with his x-rays lying by his head. He said that the prison warden was trying to obtain a special release to allow him to return home so that his mother could take care of him. Unfortunately, he explained, the release must be processed by a judge, which was delaying it.

| An older woman at the Sabaneta women's annex, who had been waiting four years, two months for her case to be decided, said she had nine children ranging in age from four to nineteen years old. She said that three of her children had come to visit her the previous weekend and the Guardia Nacional had barred them because the older girl was wearing a short-sleeved shirt. Even when the children were allowed in, it often took hours because of the long line of people waiting. She said that her two adult children took care of her younger children, but that she was still financially responsible for them.

Sentenced Prisoners

Sentenced prisoners currently make up about a quarter of the prison population. Another means of obtaining the necessary reduction in prison overcrowding is, therefore, to cut their numbers. A couple of laws are designed to do this, the most important of which reduces prisoners' sentences by one day for every two days of work or study (it is thus commonly referred to as the "two for one" law).⁸² While this law could potentially reduce prisoners' sentences by one-third, and thus reduce the population of sentenced prisoners by one-third, it has been conservatively applied. The obvious problem-and one of the primary complaints of prisoners we met-is the lack of work or study opportunities in the prisons. With no means of fulfilling the prerequisites of the law, prisoners have little hope for gaining early release under it.

Venezuelan law also contemplates alternative sanctions to prison-essentially like parole-most of which are granted at the discretion of the Ministry of Justice.⁸³ These options have been exercised to some extent, but they could be further exploited in order to reduce the prison population.⁸⁴ Finally, a few prisoners are granted pardons each year, most notably in February 1996 on the occasion of Pope Jean Paul II's visit to Venezuela.⁸⁵

Judicial Reform

Efforts to reform the judicial system have been ongoing for several years and have progressed in recent months. In December 1993, the government signed an agreement with the World Bank to modernize and improve the justice system; the Bank had conducted a study of the system's problems and was concerned, among other things, that Venezuela's judicial instability deterred foreign investment.⁸⁶ Although progress on the project was initially quite slow, by late 1996 several governmental entities, including the Judicial Council and the Legislative Commission of the National Congress, were engaged in developing a reform plan. Despite significant disputes among the parties in negotiations over the plan, the effort has garnered substantial recent attention.⁸⁷ Unfortunately, as Venezuelan nongovernmental organizations have signaled, negotiations over the reforms have gone on behind closed doors, without the participation of representatives of civil society.⁸⁸

The proposed reforms entail the modernization of the system of judicial administration, the strengthening and improvement of the Judicial School, and the construction and repair of court buildings.⁸⁹ On the legislative side, there has been discussion of reforming the basic laws of the Supreme Court, the judicial power, the Judicial Council and other judicial bodies, and of establishing a body empowered to maintain judicial discipline.⁹⁰

But perhaps the key reform being contemplated-which observers agree is urgently needed-is the Legislative Commission's revision of the code of criminal procedure.⁹¹ The proposed Organic Code of Penal Procedure (Código

Orgánico de Procedimiento Penal), which would entirely replace the existing procedural code, would change the character of the system from essentially inquisitorial to essentially accusatorial. In other words, it would institute oral, public trial proceedings; it would use juries or lay judges for fact-finding; it would limit the power to press charges to the public prosecutors; and it would abolish the traditional *sumario*, the closed investigative stage of the inquisitorial process.⁹² The desired effect of these changes would be to establish a speedy, public trial process in place of the slow, secretive process currently employed.

Several different versions on the new code have been circulated, and preparations for the new system, including training judges and lawyers in the use of oral trial procedures, have already begun.⁹³ The new code is expected to enter into effect in approximately April 1998.⁹⁴

IV. LIVING CONDITIONS

The majority of Venezuela's prisoners are forced to endure appalling daily living conditions. Crowded into a system filled far beyond its capacity, inmates routinely sleep two or three to a bed, or even on passageway floors, wherever they find space. Most prison complexes are physically deteriorated, although the Ministry of Justice began remodelling six facilities in 1995. Forced to provide their own mattresses, bedding, clothing, and, to a lesser extent, food, prisoners are dependent on the support of their families or others outside the prison.

The Impact of Overcrowding

Many prisoners live in communal cells that are two to four times as crowded as they were designed to be. Some prisoners cannot even lay claim to a cell: in Sabaneta prison, one of the country's most spectacularly overcrowded and decaying facilities, inmates sleep in hammocks strung in narrow pipe-access passageways, and in many other facilities prisoners sleep in the corridors. Living space distribution is largely unregulated—in some prisons, completely unregulated—and the burden of overcrowding falls disproportionately on certain prisoners. Within each prison, some cells overflow with inmates while others are much more sparsely populated. In general, prisoners who are poorer, weaker, and less powerful tend to live in correspondingly more cramped and uncomfortable accommodations.

At some facilities, the effects of the prison system's pervasive overcrowding are lessened by the degree of mobility allowed inmates. In prisons such as Sabaneta and Ciudad Bolívar, for example, the authorities have virtually ceded internal control of the facility to the inmates, and thus there are no official restrictions placed on inmates' movements within the prison walls. At other prisons, for example Tocuyito, inmates may leave their cellblocks at will and spend the day outdoors, exercising or getting sun.⁹⁵

At more restrictive prisons, inmates are confined to cramped indoor corridors (generally known as *letras* for the letter designations given them) lined with cells. Inmates in such prisons, which include El Rodeo, Tocarón, the Venezuelan General Penitentiary and the Máxima de Carabobo, are allowed to move freely between cells along the common corridor, but the space available in these areas is extremely limited. Moreover, inmates are generally locked into their cells from late afternoon until early morning.

In all prisons, the most cramped and uncomfortable areas are the disciplinary cells, which are as likely to hold prisoners needing protection from other prisoners as they are to hold those being punished.

Cell Conditions

Except for a limited number of individual cells in the INOF and the women's annexes, communal cells are the rule in Venezuelan prisons. The newer prisons, such as La Planta, El Rodeo, and Tocarón, have small- and medium-sized

communal cells designed to hold four or ten inmates, although in the case of La Planta and Tocarón the cells actually held far more than this number. Other facilities, notably Sabaneta, Ciudad Bolívar, and the Casa Amarilla at El Dorado, have larger dormitories.

Where they are allowed to do so, inmates partition off communal cells to create smaller living spaces, generally by stretching sheets over wooden frames or ropes. These partitions, which the inmates call *bugalús*, afford them a measure of privacy. One of the few prisons where we did not find such *bugalús* was El Rodeo, where the National Guard reportedly tears them up. In some prisons, notably Sabaneta and the prison of Ciudad Bolívar, prisoners have built more permanent structures using cinder blocks and sheets of plywood.

Cell overcrowding generates filth, bad smells, and vermin, which in turn exacerbate the tensions caused by overcrowding. Inmates are responsible for keeping their living quarters clean and, obviously, some do a better job than others: the more crowded the cell, the more difficult the task. The walls and floors of most cells are of dark, dingy concrete whose paint wore off long ago, except for the rehabilitated sections of El Rodeo and Tocuyito, which are a freshly painted blue and white.

Cells are generally extremely cluttered, often decorated with numerous objects, photos, and religious mementos; a few even have elaborate murals. Webs of electric wires run about the cells seemingly at random, except in renovated facilities.

Since Venezuela enjoys a warm climate, its prisons are not sealed; instead the cells or corridors have barred windows that allow in light and air. Ventilation is good in some areas, although some cells lack windows, and when these cells are overcrowded they become noxious with a lack of air and an abundance of vile smells. Interior hallways and stairs in some facilities are particularly dank. Lack of lighting is also a problem in some facilities, particularly the Carabobo Máxima and Catia, whose interior regions have only scattered artificial illumination and little natural light.

The Ministry of Justice began renovating six facilities in 1995, including El Rodeo and Tocuyito, which Human Rights Watch/Americas visited. The physical improvement of those facilities was impressive.⁹⁶ Unfortunately, the prison system's chronic problems of extreme overcrowding and insufficient staffing bode poorly for the maintenance of these improvements.

Bedding and Clothing

Venezuelan legislation draws directly upon the U.N. Standard Minimum Rules in requiring that each inmate be assigned an "individual bed" and be provided with "sufficient bedding to change the bed periodically and maintain it in a proper state of cleanliness."⁹⁷ Although international standards allow variation "in accordance with local or national standards" in the type of bedding provided by each prison, they unequivocally call upon prison authorities to make available to each prisoner "a separate bed" and "separate and sufficient bedding which shall be clean when issued."⁹⁸ Venezuela's men's prisons are, almost without exception, not in compliance with these requirements.

Several prisons supply metal bed frames for inmates, although in most such facilities the inmate population far exceeds the number of beds available. Only El Rodeo and Tocarón prisons provide mattresses for the inmate population. In the vast majority of men's facilities, inmates sleep on the cement floor on foam mattresses provided by family members or purchased from other inmates. Two inmates frequently share a mattress. Those without family members or money—known as *fritos*—sleep on the bare floor in passageways, bathrooms, or wherever they can find space.

Prisoners in Venezuela wear their own clothing. There is no provision for government-issued clothing, even when prisoners need it. Most prisoners are adequately clothed, and most wore serviceable though worn shoes, but in

theCarabobo Máxima we saw a few prisoners who possessed no clothing but their underwear.⁹⁹

The failure to provide items such as bedding and clothing encourages a form of prison servitude. Prisoners who lack money and family support work for other prisoners in exchange for these articles.

Food

In March 1996, the Ministry of Justice allotted Bs. 303 (approximately US \$1.05) per prisoner per day for meals. (The amount has since increased to Bs. 451 (approximately US \$0.96, using the exchange rate of January 1997), but the increase was insufficient to keep pace with Venezuela's high inflation rate.) With so little money available, it is not surprising that we heard many complaints about the amount and quality of food. The main meal at most prisons, served late in the morning or in the early afternoon, consisted mostly of starch with some vegetables.¹⁰⁰ "Not enough, and not the right kind of food," stated an inmate at LaPlanta.¹⁰¹ Based on our observations, numerous inmate complaints, and the frank admission of at least one prison official, Human Rights Watch believes that the food served at some prisons fails to meet the requirements of Venezuelan law, which provides that "inmates shall be offered a nutritious diet sufficient for the maintenance of their health," and the similar requirements of the U.N. Standard Minimum Rules.¹⁰² Prisoners in these institutions, which include the prisons of Ciudad Bolívar and Tocuyito, depend on their families or on other prisoners for food. In most prisons, nonetheless, inmates are given minimally adequate food rations, though hardly generous ones.

Most prisons lack trays and other serving utensils. Prisoners serve themselves using their own plastic food containers or even their hands. The only prison we saw which supplied trays was El Rodeo, and even there the chef complained that he only had eighty trays and needed some 500 more.

Kitchen facilities, like the rest of the physical plant, were generally old and in disrepair; and prison authorities did not appear to enforce standards of cleanliness. Before we entered the kitchen in La Planta, the warden stopped us, warning, "We know that this is in terrible shape." Once inside the sweltering, windowless facility, we observed inmates preparing food on tables covered with grime.

The areas where food was stored were often dirty and, according to prisoners' reports, infested with vermin. Many prisons did not have adequate refrigeration facilities. In La Planta, for example, we saw large cuts of meat lying on the filthy cement floor of an unrefrigerated storeroom. But in contrast to these clearly unhygienic conditions, the facilities we were shown at Catia and El Rodeo prisons were modern and clean, with food stored in sealed containers or wrapped in plastic.

Many inmates rely on family members to bring them nearly all their food or to give them money to buy food. In Catia's "worker's ward," for example, only about thirty of 240 prisoners regularly ate prison food; everyone else ate their own. Prisoners normally use makeshift stoves, sometimes no more than a heating element on the cement floor, to prepare food in their living areas. At some prisons, including El Dorado and Catia, we saw inmates cooking over fires in filthy bathrooms, burning wood, paper, and plastic in areas that were often poorly ventilated.

Prisoners who can afford it supplement their diets by buying food from prisoner-run canteens. In Catia, there was one canteen on each floor. These inmate-run canteens stock a wide range of items, including soft drinks and bottled water, corn meal, cooking oil, matches, and chocolate. Some prisons had more elaborate prisoner-run facilities. In the common area of one of the pavilions in La Planta, inmates sat on stools along a bar, where they bought soft drinks and snacks from another inmate standing behind the counter. In El Rodeo prison, two prisoners operated a bakery, making bread and cakes to sell to other inmates. At Sabaneta, where inmates have considerable freedom to move within the prison complex, food stalls were set up in the courtyards outside of each pavilion. The inmates who run these canteens

and other operations usually must pay the prison for the right to do so. The director of the Sabaneta women's annex told us, for example, that the inmate who runs the canteen there rents the space from the prison for Bs. 5,000 (approximately US \$17) per month.

The distribution of food at some prisons raised serious concerns. In Ciudad Bolívar prison, we saw inmates scuffle as they attempted to reach the buckets of food carried to different areas of the compound. Prison guards stood outside of the locked gate at the entrance, watching while some inmates brandished knives and demanded that others hand over the food they had just received. One inmate told a Human Rights Watch representative, "There's no control over who gets the food; it's complete chaos. Some eat, some go without."¹⁰³

In Sabaneta prison, the leaders of the four inmate evangelical churches reportedly run the food distribution system. According to one inmate, the prisoners settled on this arrangement to avoid the kinds of conflicts we saw at Ciudad Bolívar.

Human Rights Watch/Americas heard numerous allegations of corruption affecting food supplies. "The kitchen is a business," explained an inmate who had worked in the Ciudad Bolívar prison kitchen for several years. He stated that the workers took the best food for themselves and sold most of the rest to those who could pay for it. This first-hand account lends credence to inmates' widespread suspicions of corruption, typified by this statement by one prisoner in the Venezuelan General Penitentiary: "At the gate we see delivery trucks pull up with all kinds of food-chicken, cheese, milk, vegetables. Where does this food go?"¹⁰⁴

For security reasons, the service of meals in most prisons is staggered, with prisoners from each living area being served together. The acting director of Catia prison said that guards must take care to ensure that prisoners from certain living areas never come into contact with each other as they get their meals, explaining: "They hate each other, and fights would break out."¹⁰⁵ Inmates from each ward have between fifteen and twenty minutes to get their meals and return to their cells. We observed similar procedures in operation at other prisons, including El Rodeo and Tocarón. "We have to eat fast," an inmate at El Rodeo reported. "Then we run back up to our cells. We don't even have half an hour to eat; maybe we get ten minutes." Another prisoner at the same institution told us, "We have to go running to get our food, eat fast, and come back running."

We observed guards harassing prisoners as they were taken from their cellblocks to get meals. At Catia, as inmates run down the stairs to reach the prison cafeteria, the guards accompanying them shout at them to move quickly while banging poles against the metal bars of the pavilion doorway. Although we never saw guards actually hitting inmates during these trips, we heard repeated complaints of such abuse. One inmate at Tocarón stated, "The *guardia* whack us with their sabers if we're not fast enough."¹⁰⁶

Water and Hygiene

The sanitary facilities in most men's prisons violate international standards.¹⁰⁷ Areas within some facilities lack functioning toilets and running water. Inmates in these areas are forced to defecate in buckets or on newspaper and then to throw their waste out the window, although a number of inmates reported that they were punished by guards for disposing of their waste in this manner. No prison visited by Human Rights Watch/Americas provided soap or other hygienic supplies to inmates.¹⁰⁸

Most men's prisons have one or two bathrooms per floor. Although each bathroom has a number of showers and toilets, many do not work. At Catia, this meant that some 250 prisoners in the workers' ward shared two showers and two toilets. Many bathrooms have only sporadic running water or lack it altogether. In the majority of the facilities visited by Human Rights Watch/Americas, inmates bathed with water hauled up to the bathrooms in buckets. Drains and

toilets were often blocked up, giving bathrooms an appalling stench. Many bathrooms had standing water mixed with human waste on the floors, which inmates walked through barefoot or in open sandals to reach the toilets. Compounding the sanitary problems arising from such conditions, inmates sometimes prepared food in these bathrooms.

The sanitary facilities at El Dorado prison merit special attention for their extreme state of disrepair. When Human Rights Watch/Americas visited, the concrete walls of the bathrooms within the Casa Amarilla, the prison's main structure, were crumbling. The only water available was a dark yellowish-brown, clearly unfit for drinking.¹⁰⁹ Flies were everywhere. Prisoners held in the facility's former kitchen had no bathroom; they had to throw their feces over the wall.

V. PRISONER-ON-PRISONER VIOLENCE

Prisoners kill each other for 50 Bs; they fight over cigarettes. The scariest part is that some of them kill just to make a name for themselves, to get a tough reputation.

-José Luis C., a prisoner at La Planta prison, speaking of Catia.

Respect for the right to life? You'll find it if you're as well-armed as the other guy.

- Joel F., a prisoner at Tocuyito.

Although known for their overcrowding, physical decay, and corruption, Venezuela's prisons are most notorious for their extreme violence. Over the past decade, thousands of prisoners have died violent deaths at the hands of their fellows. Some prisoners have been killed in headline-grabbing spasms of violence, such the 1994 massacre at Sabaneta prison, but many others have died practically unnoticed, losers in the daily fight for survival in Venezuelan prisons.

During our visit to the country, we saw compelling evidence of the prison system's chronic violence. We entered Tocuyito prison, the third facility on our visiting list, just after a stabbed prisoner had been dragged out to the gate, blood pouring from his stomach. At Ciudad Bolívar we saw another prisoner lying by the prison's gate with a bullet lodged in his spine; he was paralyzed. A day prior to our arrival, in the same prison, two inmates had been killed. In other facilities, prisoners showed off festering wounds as well as deep and jagged scars, and recounted war stories, most of which led inevitably to the formula, "It's the survival of the fittest here"; they also displayed weapons ranging from sharpened nails to home-made guns.

Lack of Guards

In the prison system as a whole, the internal personnel consist of just over 5,000 administrative staff, technical staff (doctors, psychologists), and guards. Ministry of Justice officials acknowledged that this figure is skewed toward administrative staff, leaving a dangerous shortage of civilian guards.¹¹⁰ Exacerbating this problem, prison wardens have been caught putting people on a prison's payroll as "guards" but assigning them administrative tasks.

In prison after prison, we found handfuls of guards responsible for maintaining control of impossibly disproportionate numbers of prisoners. Sabaneta prison, for example, had a total of thirty-six guards on staff to supervise more than 2,300 prisoners. Because this staff was divided among two shifts, and because guards must often accompany prisoners off the facility's premises, the actual number of guards on duty at any given time was a fraction of this number. Indeed, on the day of our visit, there were only thirteen guards on duty (a prisoner-to-guard ratio of 180 to one). Moreover, the

warden of Sabaneta admitted that occasionally he has had only four guards available to supervise the entire prison population (a prisoner-to-guard ratio of 575 to one).^{[111](#)}

Although Sabaneta prison is an extreme case, a few other facilities that we visited had similarly disproportionate numbers of guards, while others were nearly as extreme. The other most notable facilities in terms of understaffing were the prisons of Ciudad Bolívar, which had eight guards on duty to monitor 1,180 prisoners (a prisoner-to-guard ratio of 148 to one), Tocarón, which had four guards on duty to monitor 1,042 prisoners (a prisoner-to-guard ratio of 260 to one), and Catia, which had thirteen guards on duty to monitor 1,840 prisoners (a prisoner-to-guard ratio of 142 to one). But even facilities that were better in terms of prisoner supervision were still inadequately staffed (when we visited La Planta prison, the men's prison with the largest proportionate staff, it had twenty-nine guards on duty to supervise 1,979 prisoners, a prisoner-to-guard ratio of sixty-four to one).

As most prison wardens acknowledged, such small numbers of guards are incapable of maintaining control over the prison populations assigned them. The warden of Catia prison, for example, stated that instead of thirty guards divided among two shifts, which was the staff that he then had, he needed a minimum of 150 guards (and thus seventy-five per shift) to keep any effective control over the prison.^{[112](#)} The warden of Tocuyito admitted that he had only 10 percent the number of guards that he should have. At Ciudad Bolívar, the warden simply stated that with the few guards he had at his disposal, "We watch from the gates."^{[113](#)}

The result is that prisoners are unsupervised most of the time. Indeed, the guards have almost entirely abdicated internal control of prisons such as Sabaneta and Ciudad Bolívar: they mostly remain in the outside administrative areas, leaving the prisoners to govern themselves. (When we visited both of those facilities, none of the guards entered with us.) In other prisons, particularly those such as El Rodeo and the Venezuelan General Penitentiary, where inmates are confined to their cellblocks, guards patrol outside the cellblocks but still rarely enter the prisoners' living areas, where abuses occur unhindered.

Moreover, the prisoner hierarchy that effectively governs a facility in the absence of adequate guard supervision is in some instances ratified by the prison authorities. When guards at La Planta prison, for example, were asked how they could possibly keep control of the prison population given their small numbers, they stated that control was maintained "via the dominant prisoners."^{[114](#)} They explained that there were about fifty such prisoners, who managed the other prisoners and reported serious problems back to the guards.^{[115](#)} At Catia prison, similarly, a number of prisoners who known as *polipresos* did the work of guards.

Availability of Weapons

Weapons of all types are plentiful in the prisons. We saw numerous knives, known as *chuzos*, and, in one prison, home-made firearms, known as *chopos*. Other weapons, including pistols and grenades, are also reportedly available there. A periodic search of Sabaneta prison in March 1996, for example, led to the discovery of the following weapons: one hundred knives, six machetes and twelve projectiles; while a search two weeks earlier had turned up a .38 revolver and a grenade.^{[116](#)} In total, during 1996, guards confiscated at least 2,689 knives, 528 firearms, and 2,155 other dangerous objects from the prisons; in 1995, the comparable figures were 2,206 knives, 112 firearms and 1,889 dangerous objects.^{[117](#)}

The glut of weapons has fed a prison arms race. There is some debate over the source of the weapons-whether they are smuggled in by guards or by visitors-but, given the high number of weapons at issue, and the meticulous body searches that visitors may be subject to, it is evident that many of the weapons can only have entered with the guards' complicity. Indeed, the director of Tocarón readily acknowledged that weapons inside his facility had entered with the help of guards; he knew of several civilian guards and National Guardsmen who had lost their jobs for this.^{[118](#)} In

addition to weapons that are smuggled in, many weapons are made. Showing a scary ingenuity, prisoners craft sharp implements out of every piece of metal available to them. At some of the older, decaying prisons, for example the unrenovated cellblocks at Tocuyito, we saw that numerous iron bars had been sawed off the cells to be made into weapons. As a result, although frequent searches are conducted to remove weapons, they have no perceptible effect in disarming the prison population. As one National Guardsman stated, "Today we'll take out fifty knives and tomorrow one hundred more will appear."¹¹⁹

The most shocking facility we saw in terms of weapons was the prison of Ciudad Bolívar. While in other facilities prisoners kept their weapons hidden, in Ciudad Bolívar prisoners walked around with their weapons openly displayed: in their hands or stuck into their waistbands. In the course of a day there, we saw countless knives and machetes, some quite large, and some forty home-made firearms.

Violence

Given these circumstances, is not surprising that violence-often deadly violence-is a daily reality in the lives of Venezuelan prisoners. According to official statistics, 207 prisoners were killed and 1,133 prisoners were injured in Venezuelan prisons in 1996, most by their fellow prisoners.¹²⁰ In other words, an average of four prisoners were killed each week and over twenty injured.

Although shocking, these numbers represent a decrease compared to past years. In 1995, at least 239 inmates were killed,¹²¹ while in 1994, a particularly violent year in the prisons, at least 345 inmates were killed.¹²²

The year 1994, of course, witnessed Venezuela's worst prison tragedy: the massacre at Sabaneta prison that left at least 108 prisoners dead and scores injured.¹²³ For about two hours on January 3, as civilian guards and members of the National Guard watched, a group of inmates from one section of the prison setfire to cellblocks in another section and shot, stabbed, and even decapitated inmates who managed to escape the inferno. A number of sources interviewed by Human Rights Watch/Americas in the wake of the violence indicated that the authorities' delay in intervening to stop the violence was deliberate, reflecting an intentional decision to let prisoners kill each other.¹²⁴ Whether purposeful or grossly negligent, the official failure to act violated prisoners' right to life as protected under international human rights law.

The Sabaneta massacre was unique in its level of violence, but the authorities' response to it is in many ways emblematic of the overall situation of Venezuela's prisons. Each year the death toll in the prisons greatly exceeds the number of people killed in the Sabaneta tragedy, with smaller-scale prison massacres occurring at frequent intervals.¹²⁵ Nonetheless, the responsible authorities still fail to take adequate measures to put a stop to the killings. Unfortunately, given the prisons' conditions, these violent deaths are all too predictable.

In the harsh environment of Venezuelan prisons, inmates often profit from exploiting and abusing others. As inmate after inmate repeated to us, "only the strong survive." The strongest and most powerful prisoners, known as *caçiques* or *huacamacacos*, eat well, live in less crowded and more comfortable cells, make money off others and have others do their bidding. In contrast, the weakest and least powerful prisoners suffer all of the worst deprivations of prison life. They sleep on the floor in crowded passageways; they clean other prisoners' cells; their belongings are stolen; they are mistreated, beaten, and raped.

Overcrowding is a significant factor in prison violence, as prisoners struggle with other prisoners to obtain minimal living space for themselves. In most prisons, inmates are not assigned particular cells; instead they are placed into cellblocks where they must either find friends willing to share space with them, or rent it, buy it, or hold it by force. Dominant prisoners control cell spaces; prisoners with money pay them to obtain a cell.

Gangs and other Groupings

Much prison violence is gang-related. The traffic in arms, as well as the prisons' substantial drug traffic, is generally controlled by gangs; the large amounts of money at stake lead to violent clashes between rival groups.

Many gangs coalesce around prisoners from the same city or region. In addition, violent rivalries sometimes develop between prisoners who live in different cellblocks in the same prison. At the Venezuela National Penitentiary, for example, cellblocks 4 and 5 are in conflict with cellblocks 1 and 2; at Tocuyito, prisoners from cellblock 2 cannot venture near cellblock 3, and vice-versa, for fear of being killed. Some gangs distinguish themselves by dress. At El Rodeo prison, we spoke to members of the *barrio bronx* gang, who favor white headbands, and who profess a deadly hatred of members of the neighboring *barrio chino* gang.

Rape

Although it is difficult to estimate the frequency of prisoner-on-prisoner rape-since most prisoners are reluctant to discuss the topic and since the scars that rape leaves are psychological rather than visible to the eye-prison experts and advocates believe that it is a constant threat, particularly for younger, smaller, and more vulnerable prisoners. The director of Tocuyito, who has twenty-five years of experience in the prisons, has concluded that youthful prisoners are overwhelmingly singled out for sexual abuse; he told us that alternatives to prison should be made available to them. Prison expert Elio Gómez Grillo explained that prison caçiques "break in" vulnerable prisoners, raping them for the first time and then selling them to other prisoners or renting out their sexual services.¹²⁶ Prisoners subject to such abuse end up as virtual slaves to their abusers.

While a number of prisoners acknowledged that rape was a problem,¹²⁷ only a few prisoners spoke of it from personal experience. One of them had been incarcerated at La Planta prison in Caracas since he was seventeen. He said:

The older prisoners, who've been here a long time, they want to make you into a woman; you know what I mean; they want to use you physically. You have to know how to defend yourself. I've seen terrible things happen here; the worst. The judges have no idea what goes on; they don't know or they wouldn't send us here.¹²⁸

In 1993, when this inmate first entered La Planta, he was attacked by a group of older prisoners who gang-raped him. His only way of escaping further abuse was to move into disciplinary segregation in the "máxima" area of La Planta, a dark, dank area of the facility with no outdoor access. After spending a year there, he moved back into a normal cellblock. He stated that he had learned how to defend himself and, when asked to be more specific, he said that he owned a knife and knew how to use it.

Another prisoner described being raped by four gang members as the result of a clash between rival gangs. The four rapists put him in a headlock and held a pistol to his head. He said what happened to him is "a common problem": every area of the prison has prisoner leaders who assert their power by abusing others in this way. Finally, a particularly sad case of a young prisoner who contracted HIV after being gang-raped by twenty other inmates was described to us by the director of Tocuyito prison.

"Refugees"

Rather than continually risk their safety, some prisoners retreat from this dangerous environment. Nearly every facility we visited had one or more groups of "refugees" (*refugiados* or *aislados*): prisoners who are weak, old, or otherwise unable to live with the general prison population. Such prisoners do not live in the regular cellblocks, but in ad hoc areas of refuge-often converted classrooms, administrative rooms, and disciplinary cells-and often mixed

together with prisoners in disciplinary segregation.

For such prisoners, greater security comes at a high cost. As a rule, the areas of refuge are significantly more overcrowded than the prison as a whole, and their conditions are worse. At Catia, for example, Human Rights Watch/Americas saw fourteen prisoners who had spent five months in a room that measured approximately nine feet by eighteen feet, about 11.6 square feet per inmate. "We're screwed," announced one inmate, explaining that they had made enemies and would be killed if they returned to their former cell blocks. The occupants left the cell once each week for visits; otherwise, they bathed, washed clothes, cooked, defecated, and urinated in the cell. (Since the cell had no toilet, they defecated into newspapers, which they threw out of the window.)

When Human Rights Watch/Americas visited the Carabobo Máxima, the country's maximum security disciplinary prison, we found that approximately a quarter of the prisoners held in the facility were refugees transferred there for their own security. While disciplinary prisoners are held in the Máxima up to three months, the refugees stay for years. In cellblock B of the first floor of the Máxima—one of the darkest, dankest, most bug-infested, and garbage-filled corridors we saw in all of Venezuela—there were twenty-two prisoners, six of whom were there for their own security. Even though the Máxima as a whole was not overcrowded, these twenty-two people were sharing eight two-person cells, forcing several of them to sleep in a filthy hallway. No lights were on, and since it was an inner corridor of a three-story building, very little light filtered in. One refugee had been living there for six years.

Refugees also made up a large proportion of the prisoners in Sabaneta's disciplinary annex. Held in groups of four or five in twenty by thirty foot cells, they are only allowed outside for visits and for a few hours of exercise each week. Since the cells' toilets are broken, they are forced to defecate on newspapers and throw them outside. Some refugees stay there for months.

Similarly, at La Planta prison in Caracas, only a handful of the thirty-two prisoners locked in the disciplinary area were there as a sanction; the rest were there because, as the director stated bluntly, "They fear for their lives."¹²⁹ The area's inhabitants included an inmate with knife wounds who had just returned from two days in the hospital and who said that he was brought to the Máxima to save his life; an older inmate who said that he came to the Máxima because of a territorial dispute, and one very young-looking inmate (he said he had just turned eighteen, but he appeared younger) who simply explained that he had "had problems" in one of the other cellblocks.

VI. ABUSES BY CIVILIAN AND MILITARY GUARDS

A fire at La Planta prison caused by members of the Venezuelan National Guard killed twenty-five trapped inmates in late 1996. The deadly blaze provided compelling evidence that the National Guard should be removed from all contact with the prison population. But such evidence is everywhere in Venezuelan prisons, in the marks of physical abuse that dozens and dozens of prisoners can show any visitor. And not a single National Guardsman has been convicted for any gross abuse of an inmate's rights in recent years.

During our inspections of Venezuelan prisons, besides hearing reports of National Guard abuses, the Human Rights Watch/Americas delegation received numerous complaints regarding civilian guards. The nature of these complaints, however, varied significantly. Untrained, underpaid, and insufficient in number, civilian guards have a deserved reputation for corruption. Prisoners routinely pay guards to permit visits, arrange cell transfers, and facilitate the delivery of contraband, among other things.

Rather than establish a stable and effective disciplinary policy, both civilian and military guards of Venezuelan prisons hand out arbitrary punishments and equally arbitrary rewards. Their failure to maintain a stabilizing physical presence inside many prisons is a dereliction of duty that promotes inmate violence and anarchy. When they do assert control,

moreover, they apply force in a manner that is often random and disproportionate, more akin to retaliation than to punishment for misconduct.

To remedy these defects, the country should replace the abusive National Guard and its corrupt civilian counterparts with a more humane and professional prison security force, one capable of restoring order to the prisons without violating prisoners' basic right to be free of physical violence, and without unfairly profiting off inmates' vulnerabilities.

The Structure of Responsibilities

Venezuelan law prescribes that civilian authorities, and specifically civilian guards, are responsible for internal control of the prisons.¹³⁰ The National Guard, a branch of the military, is charged with the prisons' external control: in other words, with apprehending escaping prisoners. This division of responsibilities between civilian and military authorities, though clear, is not absolute. In "exceptional" circumstances, the National Guard may be called in to keep order within the prisons.¹³¹

In Venezuelan prisons, what is exceptional according to the law has, as the weeks, months, and years have gone by, become the norm in practice. Since late 1994, when the Ministry of Justice first requested that the military assume control of seven of Venezuela's most violent prisons, the "militarization" of the prison system has become an established fact.

In order to operate safely, prisons must have rules, as well as punishments for those who violate them. Venezuela's prison law outlines the disciplinary sanctions appropriate for use against unruly or disobedient prisoners.¹³² Corporal punishment is not among these sanctions, although the legislation does permit the use of "coercive measures" in situations of imminent danger.¹³³ As legitimate punishments, the prison code prescribes the denial of privileges, confinement to one's cell for up to thirty days, confinement to a punishment cell for up to fifteen days, and transfer to another prison. When asked how prisoners were disciplined, prison wardens generally referred to the listed punishments: they mentioned, in particular, suspending visits, confining prisoners to punishment cells, and, in the most serious cases, transferring prisoners to the Carabobo Máxima or to El Dorado prison. Some told us that a conduct board (*junta de conducta*), consisting of themselves and other high-level members of their security staff, met to decide the more severe punishments.

Yet, as described previously, Venezuela's civilian guards do not maintain effective control of the facilities under their charge. With official supervision only weak and sporadic, the formal rules and punishments described in the Venezuelan prison code do not meaningfully hold sway in the prisons.

Physical Abuse by the National Guard

The National Guard's approach to its expanded prison duties has been a military one. Rather than staffing the prisons, it has "occupied" them; rather than disciplining prisoners in accordance with prison rules, it has imposed its control through the frequent application of brute force.¹³⁴ Prisoners at every men's prison we visited inundated us with reports of physical abuse by members of the National Guard (except prisoners at Catia prison, which was guarded by the Metropolitan Police). Nor were the complaints we heard limited to formally militarized prisons such as Tocuyito and El Rodeo. Instead, the National Guard apparently maintained an equally aggressive presence in many prisons that were not officially militarized, such as the prison of Ciudad Bolívar, which they entered almost daily.

Human Rights Watch/Americas learned that when members of the National Guard entered a prison, whether to conduct a search or to manage a disturbance, they hit prisoners with their sabers (*peinillas*) on little or no provocation. Prisoners

reported that searches were almost always accompanied by gratuitous beatings. As one inmate explained:

Getting hit by the *guardia* is part of life here. Whenever they come in to search the cellblocks they hit us: maybe you don't run fast enough when they want you to, or maybe they don't like the way you look, or maybe they're just hitting everyone that day. It's like a form of sport for them.¹³⁵

Numerous inmates emphasized the National Guard's obvious hostility toward the prison population and apparent delight in harassing prisoners. "They like to humiliate us, frighten us, hurt us. When they do searches, they sometimes make us take off our clothes and roll around on the ground."¹³⁶

Besides beating prisoners, National Guardsmen were also said to smash their belongings. Inmates in numerous facilities told us that during searches the National Guardsmen ripped through their cells, throwing their personal items on the floor and breaking them. "They don't really like us to have televisions," one prisoner said, "so they drop them on the ground."¹³⁷

Public prosecutors are supposed to monitor searches to ensure against such abuses, but their attendance at searches was said to be spotty. The small number of such prosecutors (fifteen assigned to prisons in the entire country) makes it difficult for them to be present at each search, particularly at prisons where searches occur almost daily. Prisoners at Sabaneta prison, where the prosecutor did attend many searches, said that the prosecutor's presence made a significant difference in the manner in which the search was conducted.

In addition to entering prisons to conduct searches, the National Guard frequently enters because of conflicts between inmates or other disturbances. On these occasions, collective beatings are the rule.¹³⁸ "When one person misbehaves, we all pay," explained a prisoner at the Carabobo Máxima.¹³⁹ Prisoners at El Rodeo told us if a fight breaks out, the National Guard enters and gives each prisoner in the area five strokes of the saber. Prisoners at other facilities had similar accounts.

Prisoners' reports of physical abuse were amply corroborated. At numerous prisons, including Tocuyito, Sabaneta, El Rodeo, Catia, the Carabobo Máxima, and Tocarón, Human Rights Watch/Americas representatives saw scores of prisoners with bruised and bleeding buttocks, attesting to the wholesale nature of the punishment meted out by members of the National Guard. Some prisoners also had saber marks on their backs and shoulders; others had skin blistering caused by hard plastic pellets. The infirmaries of several prisons, moreover, held prisoners who had been badly beaten or shot by members of the Guard. The Tocarón infirmary, for example, held one prisoner whose badly swollen leg had been hit by a National Guardsman's bullet and was healing poorly, and another prisoner whose legs were covered with dried blood from a more recent beating. At Tocuyito, we met a prisoner whose leg had been recently amputated; he had been shot by the National Guard when they were "on the rampage," as he put it, shooting indiscriminately.

Although Human Rights Watch/Americas was unable to obtain statistics regarding the number of prisoner deaths attributable to the National Guard, the lethal nature of the Guard's hostility toward the prison population is no secret.¹⁴⁰ The most deadly of the violent encounters between members of the National Guard and prisoners was the 1992 Catia prison massacre. On November 27, 1992, the day of an attempted coup d'état, prisoners at Catia revolted. When the small number of civilian guards assigned to the facility fled, and the Metropolitan Police failed to regain control over it, troops of the Fifth Regional Command of the National Guard were called in to retake the prison, which they did with the utmost violence. When the uprising was over, two days later, at least sixty-three prisoners were dead, many shot at close range, and another forty-five were injured. Not only was lethal force used indiscriminately, but the evidence suggests that the National Guard engaged in summary executions of prisoners.¹⁴¹

More recent proof of the National Guard's unfitness to work in the prisons emerged in late 1996 with the La Planta prison fire. In the early morning hours of October 22, just after conducting the day's first head count, members of the National Guard locked the prisoners of Wing Four into their cells and fired two or three tear gas canisters in with them. A blaze immediately broke out in one cell, which held some fifty prisoners in a twelve-by-twelve-foot space. Scrambling out through an upper window whose bars they forced open, half of the cell's inhabitants succeeded in escaping the inferno. The remaining twenty-five prisoners, trapped in the locked cell, burned to death while the National Guardsmen made no attempt to save them. The flames were so intense that numerous bodies were charred almost beyond recognition; it took more than a week for all of them to be identified.

La Planta, with a capacity of 500 inmates, housed over 1,700 at the time of the fire. Relations between inmates and the National Guard had been tense for some time, and inmates readily believed that the fire and the resulting deaths were deliberate. In the hours after the blaze was put out, a stand-off ensued between the National Guardsmen surrounding the prison and the prisoners inside, which was only broken when the minister of justice arrived and allowed journalists and television cameras into the facility to document the tragedy. Visibly traumatized by his view of the carbonized bodies, Justice Minister Henrique Meier characterized the incident "a crime against humanity," and, not long afterwards, President Caldera spoke of it as "a profound pain that concerns us all."¹⁴²

The La Planta fire inspired renewed calls for the National Guard to be removed from the prisons, but to date no concrete steps in that direction have been announced.¹⁴³ As long as the National Guard remains in the prisons, it should be emphasized, the potential exists for future prison tragedies.

Reactions to Militarization

Although they expressed varying degrees of concern on the subject, everyone who was involved in militarization and who spoke with Human Rights Watch/Americas representatives professed some discomfort with the situation. Members of the National Guard with whom we spoke admitted that they disliked their prison duties and had little regard for prisoners.¹⁴⁴ Prison wardens, when asked their views about militarization, generally stated that the measure might be useful as a short-term emergency response but was in no way a responsible or workable solution to Venezuela's prison crisis. One warden stated bluntly, "I don't agree with it. Give me thirty civilian guards, and take out the military; everyone would be better off. The soldiers harass the prisoners more than the guards do."¹⁴⁵ High officials in the ministry of justice acknowledged the policy's defects, but asserted that it would be ending soon.¹⁴⁶

The then-minister of defense, in a meeting with Human Rights Watch/Americas representatives, emphasized that the military did not want a greater role in guarding the nation's prisoners. Indeed, he explained, "We would be happy to get out of there." Returning to the subject at the end of our meeting, he reiterated, "I would like to remove the National Guard from the prisons. Being there is a big problem for us."¹⁴⁷ His impatience for the National Guard to quit the prisons was echoed in a recent meeting between National Guard authorities and members of the Chamber of Deputies' Commission on Interior Policy.¹⁴⁸

The lack of an official voice strongly in favor of militarization exposes the policy for what it is: a stop-gap measure that was instituted as a last resort, and that has remained in place due to the Ministry of Justice's failure to hire and train the necessary number of civilian guards.

Impunity for Abuses

Although they claimed that there were many such prosecutions pending, officials within the Public Ministry were unable to provide us with a single specific instance in which a public official had been successfully prosecuted for abuses committed against a prisoner.¹⁴⁹ Prosecutor Mastropietro, one of Venezuela's two national prison prosecutors,

recalled that he had obtained a conviction in at least one such case "in 1991 or 1992," but he conceded that the large majority of his prosecutions involved corruption rather than physical abuse. Notably, the state agents responsible for the most deadly of Venezuelan prison abuses—the 1992 killing of over sixty inmates in Catia prison, and the 1994 killing of over one hundred inmates in Sabaneta prison—have escaped all sanction for their crimes, although prosecutions are still formally pending.¹⁵⁰

Contributing greatly to impunity for abuses is a Venezuelan procedural invention known as the "*averiguación de nudo hecho*." This preliminary investigative procedure, which must be completed before a public official can be criminally prosecuted, is supposed to determine whether the defendant was a state agent on active duty when he committed the alleged acts and whether those acts, if proven, would constitute a crime. The ostensible purpose of the procedure is to protect public officials from irresponsible accusations, allowing them to fulfill their duties "without being constantly afraid of being brought into criminal court."¹⁵¹ Although formally an expedited process, nudo hecho proceedings can drag on for years. As we noted in our 1993 report on Venezuela, "the nudo hecho procedure thus gives a state agent *de facto* temporary immunity from prosecution which, in fact, is frequently quite prolonged."¹⁵²

Conflicts between military and civilian jurisdictions in cases involving members of the National Guard cause further delays, and, when resolved in favor of the military, almost guarantee impunity.¹⁵³ Under the Military Code of Justice, military courts have jurisdiction over members of the military who violate the military code or who commit common crimes while on active duty. The application of this rule to National Guardsmen working in the prisons is highly controversial given the military courts' lack of judicial independence and impartiality.¹⁵⁴ The case of the Sabaneta massacre, which the Supreme Court awarded to a military court, exemplifies the likely results of military jurisdiction: although more than three years have passed since the killings occurred, no member of the National Guard has been convicted of wrongdoing.

Given this inauspicious history, the conflict between military and civilian courts that arose in the criminal proceedings following the La Planta fire raised serious concerns that military courts would once again thwart the criminal prosecutions of abusive members of the National Guard. In the immediate wake of the fire, both civilian and military judges initiated investigations into the matter.¹⁵⁵ Both authorities tried to detain suspects in the blaze, creating a jurisdictional conflict that observers feared would be resolved in favor of military jurisdiction.¹⁵⁶ Fortunately the Supreme Court—following a previous case in which it held that the National Guard's work in areas of civilian administration could not be deemed to be of a military character—ruled that the case should be adjudicated in the civilian courts. It is to be strongly hoped that, in this instance, the courts will break with Venezuela's history of impunity for prison abuses and reach a just and timely resolution of the La Planta tragedy.

Corruption of Civilian Staff

All prison systems have a degree of corruption, but in Venezuela corruption is pervasive. As prison expert Elio Gómez Grillo described the problem: "The prisoner has to pay for everything: to go to court, to eat, to change cells—he practically pays to breathe."¹⁵⁷ Observers of the prison system all agree that a lot of money changes hands in this so-called prisoner industry.¹⁵⁸

Prisoners we spoke to confirmed the widespread nature of guard corruption, even putting price tags on various items: Bs. 1,000-6,000 for a trip to court (approximately US \$3.50-21.00); Bs. 50 for a bucket of water (approximately US \$0.17); Bs. 1,000 for a mattress (approximately US \$3.50); Bs. 500-2,000 for a visit (approximate US \$1.75-7.00); Bs. 500-3,000 for a knife (approximately US \$1.75-10.50). Prices varied, they pointed out, according to the prison, the prisoner, and the guard. In some prisons, things like transportation to court and visits were free.

Discussing such differences, a prisoner at the Venezuelan General Penitentiary asserted:

All guards take money to some degree. What varies is the kind of things they'll take it for. Some will just let you buy them a Coke, or will take money for a phone call. Others you can buy anything from: they'll help you escape, if they think they'll get away with it.¹⁵⁹

One effect of the prison system's pervasive corruption is to increase disparities in the treatment of rich and poor prisoners. If a poor prisoner must reckon with the ugly fact that nothing in prison is free, a rich prisoner takes comfort in the knowledge that almost everything has a price. Of course there are few rich people found in Venezuela's prisons. But those prisoners with relatively more money live in roomier cells, eat better food, and enjoy a variety of privileges not shared by their poorer companions.

It should also be noted that it is the very misery of the prisons that constitutes the most vital source of their profit-making potential. When prisoners know that their survival is at stake-when they face assignment to a notoriously dangerous cellblock or when they need firearms to protect themselves from enemies-they are most willing to make financial sacrifices. We were told, for example, that prisoners routinely paid Bs. 10-15,000 (approximately US \$34.50-52.00) for transfer to the "workers' ward" at Catia because it was known to be relatively quiet, and that they paid Bs. 50,000 (approximately US \$175) for a gun. The fact that prison staff may have a financial stake in prisoners' desperation surely undermines the humane operation of the prison.

The direct causes of corruption are easy to identify: untrained, unprofessional guards are paid extremely low wages, while working in an environment rife with opportunities to supplement these wages. With their salary of Bs. 23,328 per month (approximately US \$80.75), supplemented by a "risk premium" of Bs. 10,000 (approximately US \$35.00), guards are ill-equipped to resist temptation.¹⁶⁰ Notably, almost every prison director we spoke with acknowledged that guard corruption was a problem. "The temptations are obvious," one director explained, "and guards obviously succumb to them. We constantly find them 'charging commissions' for things."¹⁶¹

Even the guards we spoke with admitted that some guards "fall into corruption," and they became heated when discussing the "pittance" that they were paid, bluntly stating that it was impossible to live on such wages. The guards at Catia, who spoke of their situation with obvious resentment, showed us their living quarters in the prison: dank communal dormitories that were not markedly better than those accorded the prisoners. Their living quarters lent credence to a statement we heard from some prison wardens: that being a guard was itself a form of imprisonment. The warden of Catia, elaborating on this idea, said that almost anyone could become a guard, but that it was still difficult to fill job openings due to the low pay, low prestige, and difficult working conditions.

Professional Training

The only training most civilian prison guards receive is "on-the-job" training. Recognizing the need for dissemination of basic norms regarding the humane treatment of prisoners, the nongovernmental human rights organization COFAVIC has developed a training program in human rights for prison guards. Begun in 1994, the course consists of three days' training in topics ranging from "violence and human rights" to the American Convention on Human Rights. Some thirty to thirty-five guards have attended each session, among them personnel from Catia prison, La Planta, El Junquito and the INOF.

Another hopeful training initiative is the National Institute of Penitentiary Studies (Instituto Universitario Nacional de Estudios Penitenciarios), located in the La Planta prison complex. The institute was established in 1992 as a training ground for a more professional corps of prison managers. Graduates of the institute are qualified to work as prison wardens, administrators, and upper-echelon staff. Included in the institute's course of study is a section covering human rights. Nearly a hundred students have completed the course, 60 percent of whom have gone on to work in the prison system.¹⁶²

These programs, which inculcate their graduates with a much-needed appreciation of how prisons should be governed, deserve encouragement and support. The distance between reality and the ideal is, however, so great in Venezuelan prisons that it would be unreasonable to expect professional training to improve the situation substantially unless other meaningful reforms are instituted.

VII. MEDICAL SERVICES AND FACILITIES

A near-universal absence of medical supplies, an acute shortage of trained staff, severe overcrowding, and outright neglect on the part of prison officials have combined to create a situation that the Ministry of Justice itself characterized as deficient to the point of collapse.¹⁶³ In addition to the obvious lack of medical resources observed by Human Rights Watch/America's representatives in nearly all of the facilities visited, we received numerous complaints about deficiencies in medical attention, most frequently that infirmaries lacked even the most basic medical supplies and that guards did not permit access to nurses or doctors. At some prisons, inmates displayed exposed intestines or festering wounds for our inspection. At others, prisoners with tuberculosis and other infectious diseases were not securely quarantined: they mixed freely with other sick prisoners, or even had contact with the general prison population. These practices violate Venezuelan law, which requires that prisoners be provided basic medical care, and they contravene international standards calling for daily medical supervision of prisoners who are sick or who complain of illnesses.

Inmates' Medical Needs

Prison populations generally have greater medical needs than the population at large. To begin with, at-risk populations such as injection-drug users are often disproportionately represented in the prisons. In addition, the stress of imprisonment, unhygienic conditions, crowded cells that facilitate the spread of infection, physical abuses, and other problems, obviously increase the incidence of health problems in prison.

Serious injuries at the hands of other inmates or guards are prisoners' most pressing health problem. According to the Ministry of Justice, in the fifteen-month period between January 1, 1995, and March 24, 1996, a total of 1,277 inmates were injured by knives or firearms.¹⁶⁴ Because virtually all injuries resulting from official abuse and many injuries inflicted by other inmates are never reported, the actual number of inmates affected is certainly much higher.

Deliberate self-injury, generally as a form of protest, is also not uncommon among inmates. An internal report from the Máxima de Carabobo made available to Human Rights Watch noted that in February 1996 the detainees in one cellblock cut themselves on their arms and chests with razor blades and sewed their lips together to protest the fact that they had not been transferred back to Sabaneta prison after completing their term of disciplinary confinement.¹⁶⁵ Similarly, in the wake of the La Planta fire, inmates who were transferred to the Carabobo Máxima from La Planta sewed their lips together in protest.¹⁶⁶ Inmates at other facilities, including El Rodeo and La Planta, told Human Rights Watch representatives either that they had taken such measures or planned to do so. Ministry of Justice statistics reported some 101 cases of self-inflicted injury for the fifteen-month period between January 1, 1995, and March 24, 1996.¹⁶⁷

Not all cases of self-inflicted injury are connected to organized protest, and they may be indications of depression or other mental illness. At the Venezuelan General Penitentiary, for example, inmates pointed out one individual whose arms and legs were covered with scars. These inmates explained that he frequently cut himself "to get attention."¹⁶⁸

Although we did not hear of any suicides at the prisons we visited, Ministry of Justice data provided to Human Rights Watch/Americas in March 1996 showed that six suicides had occurred over the previous fifteen months.¹⁶⁹ Figures cited in news accounts suggest a much higher number of suicide attempts; in February 1995, for example, the Attorney General stated that there had been forty-one suicide attempts at Tocuyito prison over an unspecified time period.¹⁷⁰

The Ministry of Justice reports a high incidence of many diseases, including pulmonary tuberculosis, malaria, and dengue fever;¹⁷¹ prison medical officials stated that the most common inmate illnesses are venereal diseases and respiratory infections.¹⁷² Poor sanitary conditions, including a lack of potable water in many prisons, are responsible for numerous bacterial and parasitic illnesses. Unrestricted weekly conjugal visits for male inmates, the inability of most prison infirmaries to provide condoms, as well as coerced and voluntary same-sex activity, contribute to the prevalence of venereal disease.¹⁷³

The general absence of testing makes it impossible to tell how many prisoners in Venezuela are infected with HIV. As of November 1995, only thirty-one inmates nationwide were known to have tested positive for the virus.¹⁷⁴

Chronic Shortages of Personnel and Supplies

Under Venezuelan law, as under international standards, prisons must provide inmates with basic medical care.¹⁷⁵ Numerous detailed provisions of the Venezuelan prison code require that each prison have an infirmary, a pharmacy, and sufficient medical staff; that it make general medical consultations available on a daily basis; and that all inmates undergo a thorough medical exam upon entry.¹⁷⁶ For the most part, however, a lack of resources prevents compliance with these legal requirements.

Prison officials and the government readily acknowledge that medical care in Venezuela's prisons is in a state of crisis. In a 1996 summary of the previous year's prison conditions, the Subcommission on Prison Matters stated that provisions for medical assistance were "notably absent" from Venezuelan prisons.¹⁷⁷ Shaking her head at question after question and finally laughing drily when asked if the prison had a dentist, a medical officer at Catia prison summed up the situation more simply, telling one Human Rights Watch/Americas representative, "Here we're in need of everything."¹⁷⁸

While a few prisons, such as the INOF, have a doctor-to-inmate ratio that is lower than one to fifty, the norm is much higher: the two facilities at Juan de los Morros, for example, have one doctor for every 570 inmates; Cumaná prison has one doctor for every 492 inmates, and La Pica has one doctor for every 443 inmates, according to the December 1995 Ministry of Justice report. Moreover, many of these doctors actually work at the prison only one day per week or for as little as a few hours. At Sabaneta, for example-where the Ministry of Justice report describes a staff of four doctors, a psychiatrist, and other medical officers (for a population of over 2,000 inmates)-the only nurse on duty told us that the facility's single doctor comes two days a week, typically for three to four hours each visit.¹⁷⁹ At Catia, only one doctor was on duty in the morning, although four were said to be available in the afternoon.¹⁸⁰ After hours and on weekends, when no medical personnel are available, sick inmates simply wait until the next working day.

Most prison pharmacies stock only minimal medical supplies: aspirin, iodine, bandages, and the like. The medical officer at Catia prison showed us nearly empty supply cabinets containing a few boxes of medication, most of which, she pointed out, had already expired.¹⁸¹ Similarly, the pharmacy at Sabaneta prison was almost depleted. The infirmary at Tocuyito had a sterilizer, half a dozen rubber gloves, and a glucose/iodine drip; the prison's pharmacy stocked little more than pain killers, iodine, alcohol, and other antiseptics. The director of the Tocuyito women's annex told us that she had been "fighting" for three months to get anesthesia for the annex's infirmary.¹⁸² The pharmacy at El Rodeo, perhaps the best stocked of any we saw, held stores of vitamins, alcohol, glucose packets, applicators, adhesives, and a few medications. Most of these supplies were donations from local religious groups such as Justicia y Paz.

Because prison medical facilities are clearly not equipped to provide anything beyond the most basic medical care, prisoners with serious medical needs must be treated at local hospitals (particularly in a couple of prisons, like El Dorado, which even lack an infirmary). However, obtaining transportation to local hospitals can be difficult. Most of

the prisons Human Rights Watch/Americas visited reported that they had only one working ambulance available, and some prisons did not even have that. At El Rodeo, the director first told us that the prison had an ambulance but that "it's not here right now." When we spoke to the medical staff, we were told that the ambulance had broken down and prison officials had resorted to using a minibus to transfer inmates to the local hospital. Finally, one medical official stated, "That bus has been under repair for a long time. I got here in June [nine months previously] and it wasn't running then. We call the fire department for help when we transfer a prisoner to the hospital."¹⁸³

These shortages in personnel and supplies reflect a severe lack of funds. According to figures provided by the Ministry of Justice, some 30 million bolívars (approximately US \$103,806) were budgeted for prison health care in 1995, or about Bs.1,364 (approximately US \$4.72) per prisoner for the year. This amount, which does not include the salaries paid to medical personnel, represented 0.8 percent of the total funds that the ministry allocated for prison costs.

Because access to medical personnel is difficult to obtain and because even the most basic medication is often unavailable, inmates depend on family members or friends to meet their medical needs, just as they rely on outside contacts to obtain nearly every other necessity of prison life. An inmate at La Planta stated, for example, "There's a nurse here, but she doesn't do anything. Inmates have to provide their own medication."¹⁸⁴ This is particularly true after National Guardsmen sweep through an area of the prison wielding their sabers indiscriminately and leaving entire floors of inmates with torn, bleeding backs and buttocks. Probably because inmates must request permission from these same guards to be conducted to the infirmary, most simply wait until family members visit and then ask them to bring ointment to put on their wounds. One family member interviewed by Human Rights Watch stated that she routinely brought ointment to her son when he was held at Catia because she never knew when the guards would beat him.

Mental Health

Venezuelan law, in conformity with international standards, requires each of its prisons to provide psychiatric care.¹⁸⁵ Nevertheless, in December 1995 the Ministry of Justice conceded that "attention to mental health is practically nonexistent" in Venezuela's prisons, with only thirteen psychiatrists and twenty-five psychologists working in the prison system nationwide.¹⁸⁶ Moreover, these low numbers probably tend to exaggerate the level of care provided, for we did not see a single mental health worker at any of the facilities we visited.

Conditions for mentally ill prisoners at the facilities visited by Human Rights Watch/Americas were appalling, resembling nineteenth-century insane asylums. At the Venezuelan General Penitentiary in San Juan de los Morros, which holds the prison system's psychiatric annex, the forty inmates assigned to the ward were locked in a filthy building, isolated far from the rest of the prison population and apparently abandoned there without any attempt at treatment. Trash littered the inner courtyard, and the walls exuded a heavy stench of urine. One inmate lay asleep on the hallway floor, wrapped in a blanket. Another stood in the inner court flapping his hands like a bird, while a third stood behind the gate to the ward and sang a song to the Human Rights Watch/Americas representatives.

Inmates suffering from mental illnesses at other prisons visited by Human Rights Watch/Americas were even worse off. At Catia, the inmates of one corridor introduced us to a young mentally impaired detainee whom they called "the Frog." According to other inmates, he had spent twenty months at Catia. He could not recall whether he had been before a judge; he did not know why or even where he had been arrested, and he appeared not to know where he was. Other inmates stated that he had never been to court in connection with his case, nor had he spoken with a lawyer since he had entered the prison. He was apparently helpless, probably victimized by other inmates, and entirely abandoned by the system.

Inmate Complaints

During the course of our interviews with inmates, we heard many complaints of lack of medical attention, either that the infirmary lacked medicine and other basic medical supplies or that guards would refuse to take inmates from their cells to the infirmary when they complained of illness. One of the inmates at La Planta told us: "The infirmary is constantly short of bandages and antibiotics and in general is not in good condition. If a prisoner has a disease that can't be seen, then the guards won't take him to the infirmary." In these cases, he stated, guards often ignored inmates' complaints, leaving them in their cells.¹⁸⁷ Many inmates complained that medical personnel were not available to see them even if the inmates were able to persuade the vigilantes or national guardsmen to take them to the infirmary. These complaints were borne out by our own observations.

The following cases are indicative of the disastrous lack of medical care found in Venezuela's prisons:

| J.S., an inmate at Sabaneta, showed us an exposed intestine, the result of a wound he had received over a week before. He had wrapped the intestine with a bit of toilet paper to protect it from infection.¹⁸⁸

| F.M., an inmate at Catia prison, asked us to contact his father to let him know that he had permission to come to the prison the next day and that he should bring something for the wounds the inmate had suffered at the hands of the Metropolitan Police the previous week.

| J.R., another inmate at Sabaneta, asked that we speak to the prison warden on his behalf. Unwrapping a dirty piece of cloth to show a knife wound in his stomach, he stated that the prison doctor had promised to transfer him to the local hospital to receive medical care. He had heard nothing since that time, and his wound had gone untreated for over seven days.

| A Ciudad Bolívar inmate in a wheelchair told us that he received an injury four months ago that left him parapalegic; he had received no physical therapy or other treatment to restore the use of his legs.

| A prisoner in Catia's south tower said that he had been unable to see a doctor for a gunshot wound in his leg, which he had bandaged with a piece of dirty cloth.

| M.O., a prisoner who had spent three months in maximum security at Sabaneta, showed us an open leg wound dripping with pus. Because the prison guards would not take him to the infirmary, he was not able to get the wound bandaged, and his leg became infected after remaining exposed to flies and other insects.

| E.D., another inmate in Sabaneta's maximum security block, showed us his swollen leg, saying that after he was injured by gunshots, the bullets were never removed. He was allowed to serve three months of his sentence at home while he recovered, then he had to return to the maximum security area. He complained, "Here they say they're going to take you to the hospital and then they don't. It's as if you were an animal."

Although complaints such as these were the rule at the prisons we visited, occasionally we saw evidence that inmates had received at least some medical care. At El Dorado, an inmate reported to us that he had been suffering from diarrhea with blood in his stool. Asked if he had been able to see a doctor or nurse, he responded that he had been to the infirmary several times, including that very day, and he showed us a packet of oral tablets he had been prescribed.¹⁸⁹ Another inmate at the El Dorado complex described being treated for a high fever which may have been malaria; he stated that the medical personnel at El Dorado usually saw the inmates fairly quickly.¹⁹⁰

VIII. CONTACTS WITH THE OUTSIDE

Venezuelan prisons generally allow inmates frequent and close contact with people from the outside world. Most prisons have two days per week during which visitors are permitted inside the facility most of the day.¹⁹¹ All visits are contact visits: that is, no physical barriers block contact between the prisoner and the visitor, as occurs in some countries. Indeed, in most Venezuelan prisons, visits do not take place in specifically designated visiting areas but instead visitors simply enter the prisoners' living quarters. On visiting days in such facilities, prisoners' families and friends roam freely through the cellblocks; children run through the corridors, and the prison acquires something of a village atmosphere.

Given the extent to which Venezuelan prisoners depend on their families for support, these liberal visiting policies are crucial. It is no overstatement to say that visitors act as prisoners' lifelines. Besides needed emotional support, they bring food, medical supplies, and other necessities.

The Problem of Distance

Given the modest means of most Venezuelan prisoners and their families, it is extremely important that prisoners be housed in local facilities. If family members have to travel long distances to see prisoners, visits will be rare and support will be lacking.

From this perspective, the recent trend toward greater state control over the prison system has the benefit of reducing the transfer of prisoners from state to state. Most prisoners we spoke to were held in local facilities. Two facilities, however—El Dorado prison and the Carabobo Máxima—held prisoners far from their places of origin.

Prisoners are generally transferred to the Máxima as a sanction for disciplinary violations. Accordingly, they may be sent there from any facility in the country. Prisoners sent from more remote areas are doubly punished. Besides the harsher conditions of the Máxima, they suffer the *de facto* sanction of the loss of family support. As more than one prisoner there commented, "The worst thing about this place is that you're isolated from your family."¹⁹²

At the time we visited El Dorado prison, located in an isolated jungle area bordering Guyana, most prisoners there had been transferred from Ciudad Bolívar. While Ciudad Bolívar is the closest city to El Dorado, it is still seven hours away by car. By public transportation, the trip costs Bs. 3,000 (approximately US \$10.38) each way, something many prisoners' families cannot afford to pay very often. And the fact that visits at El Dorado only last three hours—from 11:30 a.m. to 2:30 p.m.—undoubtedly makes the trip an even greater expense. Prisoners also complained that some visitors had undertaken the long trip out to see them and been turned away by members of the National Guard because they were wearing the wrong clothes.

"There are really few visitors," the warden acknowledged, "maybe ten or fifteen at most. People don't have the money to come out all this way."¹⁹³ Unlike the weekly visits that prisoners in other facilities mentioned, many prisoners at El Dorado said that their spouses visit every four to six months. A couple of the long-term prisoners told us that they had not received a visit in years. "We feel like hostages," one said. "We've got no communication with the outside world."

The Venezuelan minister of justice recently announced his intention to use transfer to El Dorado as a disciplinary measure, and disciplinary transfers there have already begun.¹⁹⁴ Human Rights Watch/Americas finds this decision regrettable. Conditions at El Dorado are terrible substandard, distinguished by crumbling concrete, shoddy wiring and bad water; these conditions alone should bar transfers there. But as prisoners there agreed, it is above all El Dorado's severe isolation that makes the situation there intolerable. Indeed, for prisoners who are not native to southeastern Venezuela, El Dorado's isolation converts imprisonment into a kind of banishment. To exile prisoners far from their families is, in our view, unacceptable as a disciplinary sanction.¹⁹⁵

Finally, prisoners' access to telephones and mail are relevant to the issue of distance. Maintaining telephone contact with family members is not possible for most Venezuelan prisoners. While a couple of women's facilities have telephones regularly available to inmates, men's facilities do not. Male inmates must generally obtain permission to use one of the phones in the administrative areas, which generally means paying off a guard.¹⁹⁶ Moreover, many of the women prisoners with regular telephone access told us that their families lack telephones in their homes; thus, the facility's telephone is not that useful to them.

None of the prisoners we met raised censorship or interference with mail as a problem. Prisoners stated, however, that visitors must generally post their letters for them since the prisons do not contain post offices. Some prisoners, in addition, are functionally illiterate.

Lawyers' Visits

Most prisoners receive few if any visits from lawyers, but the infrequency of such visits is not due to restrictions imposed by the prison authorities. Lawyers are generally free to visit their clients every day except for the two or three days a week reserved for visits by family and friends. Visiting rooms are clean and equipped with desks.

Human Rights Watch/Americas did not receive a single complaint about restrictions on lawyers' visits. Rather, prisoners complained that their lawyers never tried to visit. Few prisoners have private lawyers; most are represented by public defenders with enormous caseloads. Venezuela has only 159 public defenders; each handles a few hundred cases.¹⁹⁷ As a result, the level of representation is often very poor. "I've never met my lawyer; he didn't come to either of my hearings," said an unsentenced prisoner at Catia prison who had been detained for three years.¹⁹⁸ His case was not atypical. Many prisoners only see their lawyers in court. Unsurprisingly, we did not run across a single lawyer during our prison inspections; visiting rooms were uniformly empty.¹⁹⁹

A group of prisoners in the Carabobo Máxima charged with drugtrafficking offenses were among the few that claimed satisfactory legal representation. They had no complaints with regard to visits, stating that their meetings with lawyers were frequent, long and private.

Conjugal Visits

Venezuela, like many other countries in Latin America, has a permissive policy of allowing male prisoners conjugal visits.²⁰⁰ In most prisons, one of the two visiting days per week, typically a Wednesday, is reserved for conjugal visits. The facilities impose no prerequisites or controls regarding these visits; prisoners told us that even prostitutes are allowed in freely.²⁰¹

One aspect of Venezuelan prisons that does pose a problem for conjugal visits is the lack of privacy. With a couple of exceptions, facilities do not provide separate conjugal visiting areas. Inmates are thus forced to create their own private spaces as best they can—a challenging proposition in light of the horrendous overcrowding of most facilities. Some inmates rent space from those with private cells. Other inmates, using sheets, towels, and assorted materials, set up *ad hoc* partitions around their beds.

For the same reasons, cleanliness is also a problem. But we did visit a couple of facilities the day prior to conjugal visit day and found inmates busy cleaning their living areas from top to bottom.

Isolated El Dorado prison differs from most facilities in its treatment of conjugal visits. Unlike almost every other prison we examined, El Dorado does not permit visits in inmates' living quarters but in an outdoor visiting area with seating and tables. The facility reserves a separate room for conjugal visits, but inmates complained that the room was

unacceptably dirty. The authorities also set a forty-five-minute limit on conjugal visits; inmates said that in practice the visits were limited to between twenty and thirty minutes.

Abuses against Visitors

Mistreatment of visitors-in the form of physical abuse, disrespect, and financial extortion-was one of the most frequently reiterated complaints we heard during the course of our inspections of Venezuelan prisons. Particularly since prisoners in Venezuela depend so much on the support of their families, they are extremely sensitive to abuses against them.

Although there are few official restrictions on visitors,²⁰² there is great deal of official discretion in the application of these restrictions. The National Guard checks all visitors before they enter a facility. The Guardsmen are supposed to ensure that visitors do not bring in contraband. In the course of performing this duty, however, the Guardsmen are sometimes extremely abusive.

"My wife came in crying the other day, the second time this has happened," said a prisoner at Tocuyito. "The Guardsmen are insulting, and the searches are humiliating."²⁰³ Prisoner after prisoner had stories to tell of Guardsmen arbitrarily refusing entry to visitors, of Guardsmen verbally abusing visitors, of Guardsmen beating visitors, and, less frequently, of Guardsmen confiscating money or belongings. A typical story was that of a woman prisoner at Tocuyito who said that her daughter waited in line two hours on Sunday for a visit, and when she got to the front of the line the Guardsmen refused her entry because she was wearing a short-sleeved shirt. When the daughter protested, the Guardsmen insulted her and detained her until 7:00 p.m., threatening to put her in jail for eight days for "disrespect to authority."²⁰⁴

Similarly, a prisoner at El Dorado said that when women from a religious organization made a special visit to the facility, members of the National Guard made crude jokes about how they were there to have sex with the inmates.²⁰⁵ Prisoners at the Tocuyito facility in Valencia described how members of the Guard often shoot their guns in the air on visiting days as form of harassment, a way to scare off visitors. A few prisoners in other facilities told us that their relatives have occasionally had to pay small bribes of Bs 1,000-2,000 (approximately US \$3.50-7.00) to be allowed to visit or to bring in food.

The strongest complaints we received involved searches of visitors, especially vaginal and strip searches (which are conducted by women staff when visitors are women). Prisoners stated that their family members are constantly forced to endure intrusive and degrading searches as the cost of a visit, and that even children and grandmothers can be subject to this undue scrutiny. They believe that the purpose of such searches-and clearly the effect of them-is often simply to humiliate the visitor. Some inmates also complained that the guards conducting vaginal searches used the same unclean gloves on one visitor after another. When Pope Jean Paul II visited Catia prison in February 1996, inmates and family members issued a vehement protest against the use of such searches.²⁰⁶

Prison authorities, on the other hand, argued that intrusive searches are often necessary. In their view, the majority of weapons and drugs that enter the prisons are brought in by visitors. The director of El Rodeo prison cited the example of a grenade that was reportedly found in a woman visitor's vagina in January 1996, and that of a pistol that was reportedly found in a woman visitor's vagina in December 1995.²⁰⁷ The director of Sabaneta said that in 1995 a woman tried to smuggle in a dead baby with drugs inside it.²⁰⁸ Prisoners stated, however, that it is the guards that bring in much of the contraband and that, even given security concerns, searches are excessive and arbitrary.

Venezuela lacks a national policy regarding strip and vaginal searches of visitors; rather, policies vary from state to state and prison to prison.²⁰⁹ Some facilities conduct vaginal searches; some conduct close visual searches for which a

mirror is placed below the genitals of the nude visitor; some require visitors to squat nude and jump. Such searches are not normally conducted on all visitors, but, according to prison officials, only on suspicion that a visitor is attempting to smuggle in contraband²¹⁰-according to prisoners, whenever a Guardsmen takes a disliking to someone. What is clear, at any rate, is that there is no meaningful oversight or control over the National Guards' exercise of discretion with regard to such searches.

Although Human Rights Watch/Americas is cognizant of prison security requirements and the difficulty of reconciling such constraints with humane visiting policies, we believe that Venezuela's arbitrary and unregulated use of vaginal searches is inconsistent with international human rights norms and that, in some cases, its use of strip searches is similarly abusive. In particular, such searches constitute degrading treatment prohibited by Article 7 of the ICCPR and Article 5(2) of the American Convention on Human Rights, as well as arbitrary interference with personal privacy, prohibited by Article 17 of the ICCPR and Article 11 of the American Convention. Our interpretation of these provisions is guided by a recent decision of the Inter-American Commission on Human Rights, which ruled that vaginal searches of prison visitors, unless conducted in accordance with a series of stringent requirements, constitute degrading treatment and violate visitors' right to privacy.²¹¹

In the case decided by the commission, a woman and her thirteen-year-old daughter tried to visit the woman's spouse in an Argentinian prison. A few days prior to the visit, 400 grams of explosives had been found in the man's cell. The Argentine prison authorities told the woman that in order to have a contact visit with her husband, both her and her daughter would have to undergo vaginal searches, which they refused. The commission, in finding a violation of the American Convention, stated that vaginal searches are only acceptable if they are authorized by a law that clearly specifies the circumstances in which they are appropriate, and if in each particular instance: 1) they are absolutely necessary for achieving a legitimate objective, 2) there is no alternative means of achieving the objective; 3) they are authorized by a judicial order, and 4) they are conducted by a health professional. The commission emphasized, in explaining these stringent requirements, the extreme intrusiveness of such searches, likely to "provoke profound feelings of anguish and shame" in persons subject to them.

The U.N. Human Rights Committee has also spoken to the issue of potentially degrading searches. It issued a general comment that covered the use of body searches, which, although not specifying vaginal searches, is clearly relevant. The comment cautioned that "effective measures should ensure that [body] searches are carried out in a manner consistent with the dignity of the person being searched."²¹²

In Venezuela there are no mechanisms in place to help ensure that intrusive searches of prison visitors are not arbitrarily and abusively performed. No legislation regulates such searches, and there are no effective constraints on their use. Particularly for vaginal searches, which represent a serious intrusion on a woman's bodily integrity, with a high potential for causing shame and distress, regulation and oversight are needed. As the Inter-American Commission emphasized in its opinion, alternative means of protecting prison security should be explored. For example, metal detectors-a large number of which were donated by the United States for use in the prisons²¹³-could be relied on more extensively.²¹⁴

IX. WORK AND OTHER ACTIVITIES

Venezuelan prisoners have few constructive ways to occupy their time. Only a small percentage of the prison population has access to organized work or educational opportunities. Other prisoners work for themselves, using raw materials and tools supplied by their families, but most prisoners are idle. Because inmates who work or study are eligible for sentence reductions, the shortage of work and educational opportunities adversely and unfairly affects inmates' chances of obtaining early release. Finally, even opportunities for recreation are limited. Although some facilities permit inmates to exercise outdoors during the day, many others confine them to their cellblocks most of the

time, providing only a few hours a week of outdoor exercise. The obvious end result of these deficiencies is an inmate population that is bored, resentful, and dangerous.

Sentence Reduction under the "Two for One" Law

As its popular name suggests, the "two for one" law (Ley de Redención de la Pena por el Trabajo y el Estudio) allows prisoners to reduce their sentences by one day for every two days of work or study. To be eligible for benefits under the law, prisoners must submit a written verification (*constancia*) from the warden of their facility that attests to the amount of time that they have worked or studied. Since educational and work opportunities in the prisons are so few, prisoners are generally unable to satisfy the terms of this law, a source of frequent and virulent complaint.

Work

Despite the legal requirement that prisoners work, Venezuelan prisons offer few employment opportunities.²¹⁵ Increasing the use of prison labor is the task of an independent government agency called the *Instituto Autónomo Caja de Trabajo Penitenciario*. In the prisons, however, there is little evidence that this agency exists. According to the Sub-Commission on Prison Matters, less than 10 percent of all inmates worked in 1995.²¹⁶ Moreover, judging from the small numbers of prisoners whom we observed working during our visits, as well as from our discussions with knowledgeable observers, even this low figure is somewhat inflated.

Certain prisons, notably El Dorado and Ciudad Bolívar, have no organized work opportunities. Prisoners' only means of earning an income is to make decorative and religious objects out of black stone; their families provide them with the necessary raw materials and sell the finished goods. At the Carabobo Máxima, similarly, the only prisoner who worked was an artisan who independently made objects out of clay.

Likewise, there were no state-run workshops in operation at Tocuyito, although the director stated that there were plans to reopen them. Some 200 prisoners at that facility worked independently, doing things like shoe repair and carpentry. At Sabaneta prison, the warden told us that the workshops were going to be rebuilt soon, and that the rebuilding project would likely employ some seventy prisoners. We did see one functioning workshop at which seven prisoners did carpentry. At Tocarón, we were told that the only prisoners officially employed were those who handled the facility's cooking and cleaning, although some prisoners worked independently using materials supplied by their families.

Even at La Planta prison, which had the most extensive workshops of all of the facilities we visited, only 160 out of nearly 1,800 prisoners were employed, mostly part-time. On the day of our visit, forty-five people were working in the wood shop making furniture and wood sculpture, twenty-seven people in the sewing shop making clothing, eight in the metal shop making furniture, and a few others repairing shoes and painting. At El Rodeo, similarly, the warden said that some one hundred prisoners were employed doing carpentry, mechanical repair, and leatherwork.²¹⁷

At some prisons, selected inmates are allowed to work outside of the facility during the day (*destacamiento de trabajo*), or to leave the prison occasionally to sell their handmade goods. The warden of Sabaneta told us, for example, that eleven prisoners worked outside on a regular basis. At Ciudad Bolívar, we were told that several prisoners were permitted to go outside of the prison on occasion to sell their crafts in the street.

The serious lack of work opportunities in Venezuela's prisons has attracted international notice. In 1996, the European Commission (EC) began financing a technical support project aimed at improving conditions in selected Venezuelan prisons, and one component of the project is the reconstruction of prison workshops. The EC is funding the repair of Sabaneta's workshops, for example, and it plans to undertake similar projects in Tocuyito and Mérida.²¹⁸

Education

According to the Subcommittee on Prison Matters, only 6 percent of inmates are given schooling.²¹⁹ Most prisons have classrooms, but for a variety of reasons, including the lack of teaching staff, they are underutilized. A few prisons, such as El Dorado and Ciudad Bolívar, provide no education whatsoever.²²⁰ While we saw many empty classrooms, and were told by some wardens that education was available, we saw no sign of it: not a single course being taught, nor any inmates studying.²²¹ Obviously, the crowded, noisy, dangerous environment of the prisons is hardly conducive to education.

Recreational Activities

The availability of recreational activities varies considerably from prison to prison, mostly depending on the extent to which prisoners are free to leave their cellblocks without guard escort.²²² In facilities where the inmates are locked up and must therefore be brought outside by guards for the specific purpose of exercising, opportunities for outdoor recreation are rare. Prisoners at Catia, for example, told us that in 1994 they went a year without once being brought outside to exercise. At the time of our visit, they were allowed outside to play soccer or basketball once a week for an hour and a half to two hours. Similarly, prisoners at the Carabobo Máxima are allowed fifteen minutes of outdoor time once a week. The rest of the time they are locked into their cellblocks (which consist of eight cells, the corridor which connects them, and a rudimentary bathroom). At El Rodeo, prisoners are taken out of such areas for one hour of exercise once a week.

Within their cellblocks, prisoners entertain themselves by playing dominoes, chess, and other games, and by listening to music and watching television.²²³

In some facilities, recreational opportunities are more frequent. For example, three of La Planta's four wings have attached exercise areas. They are sufficiently spacious to allow large numbers of prisoners to exercise; the prisoners play basketball, volleyball, soccer and other sports. Tocuyito has a big basketball court as well as an indoor gymnasium with exercise equipment. Sabaneta and Ciudad Bolívar are too crowded to permit a lot of sports, but, particularly at Sabaneta, many prisoners were gambling and playing dominoes. (As one prisoner pointed out: "It's like a casino here."). Prisoners told us that there is cockfighting at Sabaneta on Sundays.

At Catia, the local Jacobo Borges museum established an innovative program of bringing artists and instructors to the prison to work with inmates, primarily those held in the "workers' ward." The museum has sponsored events such as literary workshops.

Religion

Prisoners are free to practice their religion in Venezuelan prisons, and a number of religious organizations provide spiritual guidance and humanitarian aid to prisoners.²²⁴ Most prisons have at least one chapel. While Catholicism is the dominant religion in Venezuela, evangelical Christianity has a prominent place in the prisons (we did not meet any prisoners who professed a non-Christian religion). Evangelical Christian prisoners commonly live together in groups, and their living areas tend to be noticeably better maintained than other areas.

X. WOMEN PRISONERS

Prison conditions for women in Venezuela vary dramatically: from the clean, modern, and well-maintained women's annex of Sabaneta prison in Maracaibo, to the violent, overcrowded, and utterly neglected facility at Ciudad Bolívar, where a few dozen women prisoners share common quarters with over 1,000 men. On the whole, women's facilities

tend to be cleaner, less overcrowded and better maintained than Venezuela's men's facilities, with proportionally larger staffs, little violence, and greater work and recreational opportunities.

Women make up only 4.5 percent of the Venezuelan prison population. The National Institute for Women (Instituto Nacional de Orientación Feminina, INOF), located in Miranda state outside of Caracas, is Venezuela's only women's prison. Women prisoners are also held in twenty men's facilities spread out over the country. Some of these prisons house women in independent annexes; others house women using more ad hoc arrangements, such as women's cellblocks within larger male facilities.²²⁵

Human Rights Watch/Americas inspected the INOF, which held 168 women on the day of our visit; four women's annexes, which each held between fifty-one and 182 women on the days of our visit; and the prison of Ciudad Bolívar, which held forty-one women prisoners together with 1,139 men prisoners on the day of our visit. The only other Venezuelan facility with a large population of women prisoners is the Occidente prison, which normally holds some 200 women. Almost all of the remaining facilities hold between ten and thirty women, while the Internado Judicial de San Juan typically holds only one or two.

Even more so than their male counterparts, a substantial proportion of women prisoners are incarcerated for drug offenses. At the INOF and La Planta facilities, for example, almost half of women prisoners are accused or convicted of drug crimes; other prisons approach these proportions. Almost all foreign prisoners are incarcerated for drug offenses. When Human Rights Watch/Americas visited the La Planta women's annex, it held nearly twenty-five foreign women, including thirteen Colombians, a few women from Spain, Peru, and Ecuador, and one woman each from Cameroon and Ghana, all of whom were being held on drug charges.

The growth in drug prosecutions has helped spur an overall increase in the women's prison population. Another cause of the increase, we were told, is that judges are more willing to sentence women to terms of imprisonment than they were in the past, when to incarcerate a woman was viewed as a dreadful punishment for her family—above all, for her children. But even though the incarceration of women is more judicially accepted than in previous decades, there is still stigma attached to it and, as a result, women prisoners face possible abandonment by their families.

Although to slightly lesser extent than the male prison population, the female prisoner population consists primarily of unsentenced inmates. Two-thirds of all women prisoners are unsentenced; some have been incarcerated for years.

The prisons hold women of all ages. Most women prisoners are in their twenties and thirties, but we met a few eighteen-year-olds, as well as a sixty-eight-year-old woman held on drug charges at the La Planta women's annex. One wing at the Tocarón women's annex holds three women known as the "grandmothers," who are nearly sixty.²²⁶

Conditions of Confinement²²⁷

Most women prisoners live in much better conditions than do men, although conditions vary significantly from facility to facility. The physical infrastructure of three of the women's facilities that we visited—the INOF, the Sabaneta women's annex, and the Tocuyito women's annex—was in excellent repair, as well as clean. Indeed, parts of the Sabaneta annex, which was built in 1989, seem more like an apartment complex than a prison. While conditions were less exemplary at the La Planta women's annex, they were still generally acceptable. The Tocarón annex, in contrast, was in poor condition.

Unlike the men's prisons, the INOF and most of the women's prison annexes we visited were not overcrowded, and none of the facilities was extremely overcrowded. The INOF, in particular, was quite roomy; with a design capacity of 240, it held substantially fewer women than that when we visited. The Sabaneta and Tocuyito annexes also provided

ample space for its inhabitants.²²⁸ La Planta and Tocarón were more crowded, though not intolerably so.

In contrast to the dormitory arrangements prevailing at the men's prisons, most women's facilities employ a mix of dormitories and smaller rooms. Mothers with children, for example, lived in single rooms in the facilities we saw. In addition, the INOF, Sabaneta, La Planta, and Tocuyito have numerous two-person rooms, and the "good conduct" section of the Tocarón women's annex has several three-person rooms (the annex's regular section has open dormitories of twenty by thirty-two feet). Moreover, although in La Planta the rooms have barred doors, in the other facilities they have regular doors, providing greater privacy and creating a much more natural atmosphere.

Women's facilities generally have decent bathrooms. Some rooms, such as those located in the "good conduct" section of the INOF, have their own toilet and shower. Others have shared sanitary facilities that are generally sufficiently numerous, clean and in good repair. Hot water was generally lacking, however, and there were periods of time when all water was shut off.

Women's facilities generally supply metal bed frames and a few of them, such as Sabaneta, supply bedding. None, however, supply basic sanitary supplies such as soap, toothpaste and toilet paper.

The meals provided in women's facilities are generally sufficiently plentiful and of decent quality, though not varied. Inmates at the Tocarón women's annex receive their rations in the form of raw food (mostly pasta, rice, eggs, bread, and butter) which they cook themselves. Kitchens are clean and functional. Although most prisons make no special food provisions for pregnant women and mothers, the INOF has a food supplement program (Programa de Alimentación Materna e Infantil) that provides milk and vitamin supplements to pregnant women and children. Similarly, the Tocuyito annex ensures that children receive milk.

Discipline, Punishment, and Relations with Civilian and Military Guards

In accordance with Venezuelan law, women prisoners are supervised by only women guards and other women staff.²²⁹ Nonetheless, in some prisons, male National Guardsmen have frequent contact with women prisoners. Relations between custodial staff and prisoners are generally much better in women's facilities than in men's. In contrast to the men's prisons, we heard few complaints of staff violence at the women's facilities. Beatings were rare at most facilities—with the incidents that were reported involving members of the National Guard rather than regular staff—and even the sanction of isolation in punishment cells was not casually used.

As with male prisoners, it is the National Guard that commits the serious physical abuses.²³⁰ Women at the Tocarón facility in Aragua, for example, were still upset at the time of our visit at what they described as a "massacre" that took place in December 1995.²³¹ A few days before the New Year of 1996, members of the National Guard got into a dispute with the prison's male inmates and began beating them. Hearing the male prisoners' cries and fearing that they were being killed, the women prisoners yelled and sang the Venezuelan national anthem. They thought that by doing so they might shame the Guardsmen; instead, it caused about twenty of the Guardsmen to enter the women's annex and attack women at random. We spoke to a large number of women who reported that the Guardsmen had brutally kicked them or hit them with the flat edges of their sabers. The women said that several of the beaten women had to go to the hospital; the most seriously injured woman had been slammed in the head with a rifle butt and required stitches.

This incident, the women emphasized, was simply the most egregious of many. Beatings had occurred before, and on numerous occasions members of the National Guard had arbitrarily thrown tear gas canisters into the women's annex. One woman claimed that she had been blinded for a week because she was hit with tear gas directly in the eyes. Women prisoners did acknowledge that the mistreatment had lessened in the past couple of months; they credited a new local commander for the improvement and worried about what would happen when he was transferred.

Besides physical abuse by members of the National Guard, women at Tocarón described constant verbal abuse. As one woman prisoner stated:

They treat us however they want-mostly as if we weren't people. When they come in to do the morning count, they call us bitches, prostitutes. Sometimes they come in really early and yell at us. We just have to keep quiet.²³²

When we visited, two women were serving fifteen days in Tocarón's punishment wing for "lack of respect" to members of the National Guard. One of them explained that when she was showering one morning the count was called and a Guardsman tried to force her to come out of the shower nude; she lost her temper and yelled at him. The punishment wing, which had three cells and a bathroom, was in desperate need of repair, with peeling paint, a web of bare electric wires hanging from the ceiling, and no water. The toilet functioned only when water was poured into it, but, the women stated, they never knew when and if enough water would be brought to them.

At La Planta, we found two women confined in the downstairs punishment cell, which was approximately eleven feet long by eleven and a half feet wide. One was there for her own protection. The other, whose left arm was handcuffed to a pole, had been sent there for disciplinary reasons; she originally received fifteen days' punishment for having grabbed a necklace from someone's neck, but she received four more days after she threw urine at the guards. The woman had no mattress, just a blanket on the floor. When questioned about the use of handcuffs, the sub-director of the facility said that the woman had previously tried to escape the punishment cell, which was not very secure (she showed us the woman's escape route).

Punishment cells in other facilities are rarely used, and nobody was held in them when we visited. The INOF has a dark and forbidding row of punishment cells in an area a short distance below the main facility that is known among inmates and staff as the little tiger (*tigrito*). Inmates reported, however, that it was extremely rare for anyone to be placed there. Instead, women who cause problems tend to be transferred to other prisons. Since the INOF is viewed as a desirable facility, both for its location and its conditions, the possibility of transfer is enough to dissuade most women from breaking prison rules.

At the Sabaneta annex, similarly, the use of punishment cells was minimal. One prisoner told us that in the eighteen months that she had been there, only two women had ever been placed in them. The Tocuyito annex used punishment cells, which inmates called the "black hole," rather more frequently-someone had been placed in one the week before our visit-but still not with any great regularity. The wardens of both facilities said that women were generally disciplined by being confined to their cellblock or by losing visiting privileges for a period of time. They emphasized that the women were not beaten, and inmates confirmed this.

Civilian staff at the women's facilities have friendlier relations with prisoners than do staff at any of the men's prisons. At several facilities, we saw staff and prisoners talking and laughing together. In addition, staff at the women's prisons are viewed as less corrupt. Although we heard several complaints about staff corruption at La Planta-one woman said that the staff "was always begging"-we were told by several prisoners that staff at the INOF and Tocuyito did not demand or accept money.

Prisoner-on-Prisoner Violence and Staff Control

Unsurprisingly, violence is much less frequent in the women's facilities. Although we met some women who had been beaten by other prisoners, the frequency and severity of these bouts of violence was much less striking than in the men's facilities. At the La Planta women's annex, nonetheless, one inmate pointed out: "We all have knives. Mostly we use them to cook with, but sometimes they're used to fight with."²³³ Women at other facilities also noted that everyone was armed, and that serious fights occasionally broke out.

The woman sub-director of the La Planta annex, one of the most dangerous women's facilities, told us that about six prisoners were injured there each year. She described a couple of serious incidents, such as a fight the previous year which ended when a woman was stabbed in the lung, and said that most of the violence was related to drug problems.

Although they were still somewhat understaffed, the women's facilities that we viewed were better staffed than any of the men's prisons, particularly given the greater manageability of the women's prison population. The Sabaneta women's annex had twelve guards (six on duty at a time) for some 180 women prisoners; the INOF had fourteen guards (seven at a time) for some 170 women; the Tocarón women's annex had four guards (two at a time) for some fifty women; and La Planta had ten guards (five at a time) for some 140 women.²³⁴

Unlike the men's prisons, the women's facilities we visited classified women according to their conduct, housing women with good conduct in separate wings with generally better conditions. The Sabaneta annex had one particularly nice block of rooms known as "*la selectiva*" where some fifty women with good conduct records were held. Tocuyito and the INOF had similar preferential housing sections. The Tocarón women's annex houses women with good conduct records in wing B, where they enjoy smaller rooms and greater privacy than in wing A. Women in wing A were described as more aggressive, and fights were said to break out frequently "over stupid things."

Family Ties

Maintaining contact with their families is a critical issue for incarcerated women. Almost all women prisoners have children, either inside or outside of the prison. Under Venezuelan law, women can keep their infants with them in prison until age three.²³⁵ When we visited, there were twenty-eight children living with their mothers at the INOF, as well as six women who were pregnant; ten children living in the Sabaneta women's annex; three children in the Tocuyito women's annex, as well as two pregnant women; and five children in the prison of Ciudad Bolívar.²³⁶ A few children at some prisons were over three years old. As one staffmember explained, "Some of these women have no one to help them; the kids are better off here than on the street."²³⁷

At the INOF, there is a separate residential area reserved for women with infants where each woman has her own room. Conditions there are pleasant. The INOF also has a childcare center that is open from 8:00 a.m. to 4:30 p.m., to allow women to work. After children leave the facility at age three, they are allowed to visit their mothers at the INOF two times a week. In addition, during vacation periods, they are sometimes allowed to stay for eight days. Some of the children live at an adjoining facility, the "Casa Hogar San José," which accepts children from ages four to ten.

Most women's facilities have two visiting days per week. In addition, the INOF and the Sabaneta women's annex have telephones for the prisoners' use.

Like male prisoners, women prisoners emphasized that financial support from one's family while imprisoned could make an enormous difference in one's living conditions. But, in contrast to most men, many women prisoners receive no family support; indeed, they often support children living outside of prison. One woman we met at INOF, for instance, was the sole provider for her twelve children. (Another mother, who had three children to support, was unhappy that the guards did not let her children smuggle her food allowance out of the prison.) Much more so than men, incarcerated women are likely to find that their spouses or partners, or even their entire families, cut ties with them while they are incarcerated. Incarcerated women face greater stigma than do incarcerated men, and their families are likely to find it harder to accept the fact of their imprisonment. As a result, women prisoners tend to receive fewer visits than do men.

A special situation is that of women prisoners whose husbands or boyfriends are also incarcerated. If the two are held in different prisons, then no contact between them is possible. If the woman is confined in the women's annex of the

facility in which her boyfriend or husband is held, then the couple is permitted a half-hour visit every fifteen days or every month, depending on the facility.²³⁸ At other times, prisoners settle for sign language communication. (There are areas of the women's annexes at Tocuyito, Sabaneta, and Tocarón, from which the men's facilities are visible; in each of these areas we saw groups of women waving and yelling to the groups of men on the other side.)

Conjugal Visits

One factor that probably contributes to the likelihood of abandonment, and about which many women prisoners felt strongly, is the denial of conjugal visits. In contrast to the liberal conjugal visiting policy extended male prisoners, women were until recently wholly denied such visits.²³⁹

In mid-1995, after extensive debate on the issue, the INOF began conducting a pilot program of allowing strictly regulated conjugal visits-or as they term them, "intimate visits"-for women.²⁴⁰ The visitor must be the woman's spouse or legally registered common-law husband; the woman must have an excellent conduct record while incarcerated; both partners must undergo an initial battery of tests, including HIV tests and psychiatric evaluations, as well as periodic testing for venereal disease; and the woman must agree to use birth control.²⁴¹

These stringent rules-which contrast with the utter lack of regulation of male prisoners' conjugal visits-have the effect of disqualifying almost all women prisoners from enjoying the benefits of the policy. At the INOF, after the list of prerequisites was provided to the inmate population, only thirty women applied for conjugal visits and only seven of them were found to qualify. The first inmate who successfully passed the program's requirements, a young woman who had by that time spent over a year as a pretrial detainee, told us that the testing process took two months to complete and that the HIV test was expensive.²⁴² Despite the low number of women taking advantage of the policy, the warden of the INOF believed that it was functioning well.

Women who qualify are allowed a two-hour conjugal visit every fifteen days. A separate structure was constructed at the INOF for this purpose; it has nice rooms equipped with sinks, toilets, televisions, and showers.

We spoke to a few prison wardens about women's conjugal visits, including the warden of the INOF, who was involved in designing and conducting the pilot program. Their stated reason for denying conjugal visits, or for at least strictly regulating the granting of such visits, was the possibility of pregnancy, followed by a concern for the women inmates's morals. Balancing these factors was the acknowledged importance of conjugal visits in strengthening family ties.²⁴³

Human Rights Watch/Americas welcomes Venezuela's movement toward granting conjugal visit privileges to women prisoners, but finds that its new policy is still unsatisfactory. The dramatically different treatment of women compared to men with regard to the granting of such visits constitutes discrimination on the basis of sex, prohibited by the ICCPR and the Convention to Eliminate All Forms of Discrimination against Women (CEDAW), both of which Venezuela has ratified.²⁴⁴ The traditional denial of conjugal visits to women prisoners reflects society's historically greater discomfort with acknowledging or accommodating women's sexuality, and Venezuela's new rules on the topic, while benefiting a handful of women, continue to discriminate against women prisoners and to reinforce pernicious gender-based stereotypes. Although it is not state policy to interfere with male prisoners's possibly promiscuous behavior or even to take steps to prevent the spread of sexually transmitted diseases in male prisons, for women prisoners the state only permits strictly-regulated monogamous sexual activity, and then only for a few carefully selected women.

Nor does the possibility of women prisoners becoming pregnant negate the fact of discrimination. Pregnancy as a condition is inextricably linked and specific to being female. By targeting a condition only women experience, discrimination on the basis of pregnancy is itself a form of sex discrimination. Indeed, where pregnancy-based discrimination has been reviewed in light of international human rights standards, the bodies charged with interpreting

those standards have consistently characterized pregnancy-based discrimination as a form of sex discrimination.²⁴⁵

Other Contacts with Outsiders

As in the men's prisons, Human Rights Watch/Americas heard no complaints from women prisoners regarding limitations on lawyers' visits or interference with their correspondence. Most women have public defenders who visit infrequently. When we visited the INOF in late March 1996, for example, the staff legal specialist told us that only two public defenders had visited so far that year, once each.²⁴⁶

Health Care

Women prisoners suffer from the same disastrous lack of health care as do men, and complaints on this topic were frequent.²⁴⁷ Besides the general lack of qualified medical practitioners and medical provisions, appropriate gynecological care is rare. At the time of the visit by Human Rights Watch/Americas, neither Ciudad Bolívar nor Tocarón had a gynecologist on its medical staff, although each held approximately fifty women inmates. The Ministry of Justice's 1995 report on medical care in the prisons stated that eleven other prisons with female inmates—La Pica, Coro, San Felipe, Guanare, Barinas, Barquisimeto, Mérida, Trujillo, San Fernando de Apure, Cumaná, and Barcelona—did not have gynecologists on staff.²⁴⁸

Work, Education and Other Activities

A sizeable minority of incarcerated women are able to work and thus to accrue the benefits of sentence reduction under the "two for one" law. Most of the work opportunities available to women prisoners are, however, arranged independently rather than through official channels. The pay varies, but the promise of a shortened sentence provides a primary motivation for women prisoners's labor.²⁴⁹

When we visited Sabaneta, about half of the eighty-three convicted prisoners worked, as did a number of the unconvicted prisoners. Of these prisoners, some thirty women cleaned the facility; others engaged in shoe-making, sewing, carpet-making and Guayira crafts. The only work opportunity provided by the authorities at Tocuyito was cleaning, which about twenty women do. They were not remunerated for this work but were rewarded through the application of the "two for one law." In addition, a number of women were independently engaged in making crafts; on visiting days, about thirty prisoners were allowed to leave the facility and sell them. Apart from a few women doing crafts, there was almost no work available at Tocarón.

At the La Planta women's annex, only a handful of women worked in the facility's two workshops (each had about a dozen sewing machines). Numerous other women worked in their cells making dolls. Finally, the INOF had the largest variety of work opportunities (many women stated that this is the reason that the INOF is considered a very desirable facility), including card-making (under the auspices of the government prison labor agency, the Caja de Trabajo), carpet-making (also run by the Caja); a surgical gauze workshop run by an independent company that contracts with the INOF; doll-making (the sewing machines belong to the facility, but the women supply their own materials), and a ceramics workshop with a kiln (the women supply their own clay).

Educational offerings in the women's facilities were sparser, but most facilities at least provided primary and secondary school courses. Some had additional classes; the women's annex at Tocuyito, for example, had classes in haircutting; at the Sabaneta annex, which had several classrooms and a well-stocked library, four inmates were enrolled in the National Open University.

The recreational offerings of most facilities were adequate; indeed, in some facilities they were quite varied. The INOF,

in particular, offered a number of recreational options, some of which we saw, including volleyball, kick-ball, ping pong, aerobics and folk dancing. It also has a large theater, at which acting classes were being given on the day of our visit. Most facilities allowed inmates free access to the outdoor areas, which include facilities for sports. The Tocarón women's annex was the least well-endowed in this respect. It had small yards attached to both of the women's areas, offering limited exercise possibilities, although women are also brought out to a larger field to play sports about three times a week.

1 For a more extended discussion of the Venezuelan criminal justice system, see Comisión Andina de Juristas, *Venezuela: Administración de justicia y crisis institucional* (Lima: Comisión Andina de Juristas, 1992).² For a more complete exposition of social and economic developments in Venezuela over the past thirty years, see Americas Watch, *Human Rights in Venezuela* (New York: Human Rights Watch, 1993), pp. 1-8; David H. Levine, "Goodbye to Venezuelan Exceptionalism," *Journal of Interamerican Studies and World Affairs*, Vol. 36, No. 4, Winter 1994. Unless otherwise noted, this discussion draws from the above sources.³ "Economía caerá 1 por ciento este año," *El Universal* (Caracas), December 12, 1996.⁴ Pedro García Otero, "Inflación cierra en 103% y marca récord histórico," *El Universal*, December 27, 1996.⁵ See, for example, Alberto de la Cruz, "La Judicatura registra déficit de 27 mil millones para 1997," *El Universal*, December 10, 1996.⁶ The difficulty of improving prison conditions without appearing soft on crime was illustrated by reactions to the Justice Ministry's November 1996 proposal of an amnesty measure to alleviate prison overcrowding. Among the members of Congress who attacked the measure because, in their view, it would endanger public security, was the president of the congressional subcommittee that monitors prison overcrowding. Ernesto Villegas Poljak, "Proyecto ley de amnistía genera reacciones encontradas," *El Universal*, November 13, 1996.⁷ Crime rose 4.68 percent in 1996 with respect to 1995. The murder rate, in particular, rose over 10 percent, with an average of 401 people killed each month in Venezuela. Victor Escalona, "La violencia produjo 400 homicidios al mes en 1996," *El Universal*, December 31, 1996.⁸ Diana Jean Schemo, "Lynch-Mob Justice Grows in Caracas," *New York Times*, May 13, 1996.⁹ Laurie Goering, "Underpaid Cops Can't Get a Handle on Caracas' Soaring Crime Rate," *Chicago Tribune*, January 10, 1996.¹⁰ Schemo, "Lynch-Mob Justice . . ."; Sandra Guerrero, "Lichan a delincuente en Minas de Baruta," *El Nacional* (Caracas), January 14, 1996.¹¹ Schemo, "Lynch-Mob Justice . . ." ¹² Manuel Díaz Álvarez, "La visita del Papa ¿nos sirvió para algo?" *Elite* (Caracas), March 3, 1996. Disturbingly, we heard this sentiment echoed by a public prosecutor charged with monitoring prison abuses, who accused "parts of the Church" of "caring too much about prisoners-more than about their victims." Human Rights Watch/Americas interview with Antonio Mastropietro, public prosecutor, Caracas, March 4, 1996.¹³ See, for example, Helsinki Watch, *Prison Conditions in Romania* (New York: Human Rights Watch, 1992), p. 2.¹⁴ American Convention, Article 5(6); *accord* ICCPR, Article 10(3) ("The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.").¹⁵ American Convention, Article 5(2); *accord* ICCPR, Article 10(1) ("All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.").¹⁶ Body of Principles, Article 5.¹⁷ U.N. Human Rights Committee, General Comment 21, paragraph 3. The Human Rights Committee, a body of experts established under the ICCPR, provides authoritative interpretations of the ICCPR through the periodic issuance of General Comments.¹⁸ *Ibid.*, paragraph 4; see also *Mukong v. Cameroon* (No. 458/1991) (August 10, 1994), U.N. Doc. CCPR/C/51/D/458/1991 (stating that minimum requirements regarding floor space, sanitary facilities, provision of food, etc., must be observed, "even if economic or budgetary considerations may make compliance with these obligations difficult").¹⁹ Other countries in the region-with the exception of Chile, which has an incarceration rate of approximately 159 per 100,000-have lower rates of incarceration. Argentina, Bolivia, Brazil, Colombia, Ecuador, Paraguay, and Peru all confine fewer than one hundred people per 100,000 population, while Uruguay confines slightly more than this figure. The incarceration rate of the United States, in contrast, is now some 615 per 100,000 population (although it should be noted that this figure includes jail detainees as well as people held in the country's prisons).²⁰ Hidalgo Valero Briceño, *Crisis Penal y Fenómeno Delictivo en Venezuela* (Caracas: Editorial, 1993), p. 80 (citing 1984 and 1985 prison population figures of 24,044 and 27,398, respectively, using figures provided by the Ministry of Justice).²¹ See *Informe del Fiscal General 1992*, Vol. II, p. 612 (prison population was 30,659 in 1991).²² By 1987, in fact, the prison population of Venezuela had reached 29,068, a 130 percent increase over the 1980 figure of 12,623. Briceño, *Crisis Penal*, p. 80.²³ The newer prisons are the Internado Judicial de Barquisimeto, constructed in 1980 with a design capacity of 750; the Internado Judicial de San Fernando, constructed in 1980 with a design capacity of 100; the Aragua prison (known as Tocarón), constructed in 1982 with a design capacity of 750; the Internado Judicial de Cumaná, constructed in 1982 with a design capacity of one hundred; the Barcelona Prison, constructed in 1982 with a design capacity of 700; the Internado Judicial Capital, in Caracas, constructed in 1983 with a design capacity of 600; the Caracas Metropolitan Prison, constructed in 1983 with a design capacity of 750; the Oritupano Prison, constructed in 1983 with a design capacity of 500; and the Los Llanos Prison, constructed in 1988 with a design capacity of 750. Miguel Maita, "El colapso penitenciario en Venezuela," *El Universal*, May 2, 1995.²⁴ The two annexes, known as Yare II and El Rodeo II (or "Yarecito" and "El Rodeito," respectively) have a combined capacity of some 1,600 prisoners. "Caldera inaugura 2 centros penitenciarios," *El Universal*, December 16, 1996. Three or four more prisons may open by the end of 1997, if construction proceeds as planned.²⁵ Lucy Gómez, "Los presos de Catia serán trasladados en enero a anexos en Yare y El Rodeo," *El Universal*, November 3, 1996. Given the size of its prison population, Venezuela has relatively few prisons. Perú, whose prison population is slightly smaller than Venezuela's, has nearly three times as many prisons; Ecuador, which has the same number of prisons as Venezuela, has

less than half the prison population.²⁶ The US dollar equivalents quoted here were calculated using an exchange rate of US \$1 equals Bs. 477, the exchange rate as of January 1997. Except where otherwise indicated, the US dollar equivalents quoted in this report are based on an exchange rate of US \$1 equals Bs. 289, the exchange rate as of March 1996, the date of Human Rights Watch/Americas' mission to Venezuela. As is evident, there have been substantial recent changes in the exchange rate, complicating comparisons of costs and prices over time. A parallel complication is Venezuela's high rate of inflation, which must be taken into account when comparing government expenditures over time. Because of inflation, apparent increases in expenditures may turn out to be decreases in real terms.²⁷ Venezuelan Penal Code, Articles 12 and 14.²⁸ Reglamento de Internados Judiciales, Article 4.²⁹ "Presos mala conducta a El Dorado," *El Universal*, November 30, 1996; "Calera indultará a 16 reclusos," *El Universal*, December 24, 1996.³⁰ Human Rights Watch/Americas interview, Mirna Yépez, Caracas, March 6, 1996; "Creixems: 'me voy satisfecho por la labor cumplida en Justicia,'" *El Nacional*, March 14, 1996.³¹ Ministerio de Justicia, Representación porcentual entre el presupuesto nacional 1996 y las principales direcciones del organismo (document on file with Human Rights Watch/Americas); Ministerio de Justicia, Representación porcentual entre el presupuesto nacional 1995 y las principales direcciones del organismo (document on file with Human Rights Watch/Americas).³² Ibid. The dollar equivalents for the 1995 expenditures were calculated based on an exchange rate of US \$1 equals Bs. 170, the rate as of March 1995; the equivalents for the 1996 expenditures were calculated based on an exchange rate of US \$1 equals Bs. 289, the rate as of March 1996.³³ Gómez, "Los presos de Catia . . ." ³⁴ In the past ten years Venezuela has had eleven ministers of justice. The present minister of justice, Henrique Meier Echeverría, acceded to the position in March 1996.³⁵ Staff turnover remained frequent under the tenure of Henrique Meier. In a November 1996 interview, he noted that in seven months he had fired at total 350 prison employees. Gómez, "Los presos de Catia . . ." ³⁶ Representatives of Amnesty International noted this phenomenon during a trip to Venezuela in July 1996. Visiting Catia prison in Caracas, they spoke of several abuses, noting that "[Former Justice Minister] Rubén Creixems acknowledged these kinds of violations during our 1994 visit and promised to remedy the situation. Justice Minister Henrique Meier said the same thing this time." Liza López, "Violaciones a derechos humanos aumentaron durante el último año," *El Universal*, July 20, 1996.³⁷ Examples are myriad, but here is an illustrative sampling. In late 1996, a dispute broke out between the Judicial Council's Inspector General of Courts and the Director of Prisons of the Ministry of Justice regarding which organ was responsible for the severe delays in the criminal process. The Inspector General blamed the Ministry of Justice for failing to bring prisoners to court; the Ministry of Justice responded that the transportation problem was minor in comparison to other problems of the judiciary. "Atribuyen a la Judicatura los retardos procesales," *El Universal*, December 12, 1996.

Earlier in the year, Mirna Yépez, a top official in the Ministry of Justice, blamed the prison overcrowding on the judicial system's slowness, stating that if the prison system only held those sentenced prisoners that it should hold, it would function well. She added that critics of the prison system should look to "the courts, the prosecutors, the National Guard and the police." Christina Hoag, "Carceles venezolanas: a cerrarlas y botar la llave," *Revista VenEconomía Mensual*, February 1996.

³⁸ Brazilian prisons are run by the country's state governments. For a description of their conditions, see Americas Watch, *Prison Conditions in Brazil* (New York: Human Rights Watch, 1989).³⁹ Human Rights Watch/Americas interview, Caracas, March 5, 1996. ⁴⁰ Sub-Comisión de Asuntos Penitenciarios, "Análisis sobre la situación penitenciaria en Venezuela," Caracas, 1996, p. 6. ⁴¹ Ibid.⁴² Decreto No. 188, mediante el cual se dicta el Reglamento No. 8 de la Ley Orgánica de Descentralización, Delimitación y Transferencia de Competencias del Poder Público sobre Encomienda a los Gobernadores de Estado de las Atribuciones en Materia de Administración de las Cárceles Nacionales, Caracas, October 7, 1993, published in *Gaceta Oficial de la República de Venezuela*, Caracas, October 14, 1993.⁴³ Human Rights Watch/Americas interview, Mirna Yépez, Caracas, March 6, 1996.⁴⁴ Convenio de Encomienda del Servicio Penitenciario entre el Ministerio de Justicia y la Gobernación del Estado Apure, November 10, 1995, para. 5.⁴⁵ Human Rights Watch/Americas interview, Mirna Yépez, Caracas, March 6, 1996.⁴⁶ Ley de Régimen Penitenciario, Article 1.⁴⁷ Human Rights Watch/Americas interview, Mirna Yépez, Caracas, March 6, 1996.⁴⁸ Human Rights Watch/Americas visited each of these prisons.⁴⁹ E.g., Human Rights Watch/Americas interview with Antonio Araujo, warden of Tocuyito prison, Valencia, March 8, 1996.⁵⁰ For example, the prosecutor charged with Catia and El Junquito prisons, Antonio Mastropietro, stated that he visited each prison once or twice a week. Human Rights Watch/Americas interview, Caracas, March 4, 1996.⁵¹ Ministerio Público, Fiscal General de la República, *Informe al Congreso de la República* (Caracas: Imprenta Nacional, 1995), p. 48-49.⁵² Código de Enjuiciamiento Criminal, Article 413.⁵³ Human Rights Watch/Americas interview, Judge Ricardo Comenares, Maracaibo, March 11, 1996.⁵⁴ Human Rights Watch/Americas interview, Mirna Yépez, Caracas, March 6, 1996; Miguel Maita, "El colapso penitenciario en Venezuela," *El Universal*, May 2, 1995.⁵⁵ Ley de Régimen Penitenciario, Articles 12 and 9.⁵⁶ Reglamento de Internados Judiciales, Article 11.⁵⁷ Article 12 of the Reglamento de Internados Judiciales provides: "detainees of each sex shall be absolutely separated [from the other sex]." It applies to pretrial detainees and to prisoners sentenced to less than one year of imprisonment. The Ley de Régimen Penitenciario, applicable to all other sentenced prisoners, mandates that women serve their sentences in special women's facilities or in independent, separate sections of other prisons (Article 83).⁵⁸ ICCPR, Article 10(2)(a); American Convention, Article 5(4). Interpreting Article 10(2)(a) of the ICCPR, the Human Rights Committee has ruled that convicted and unconvicted persons must be kept in separate quarters but need not be kept in separate buildings. Regular contact between convicted and unconvicted persons, such as contact occurring when

convicted inmates perform chores in areas where unconvicted persons are held, does not violate this provision "provided that contacts between the two classes of prisoners are kept strictly to a minimum necessary for the performance of those tasks." *Larry James Pickney v. Canada*, Case 27/1978 (October 29, 1981), in U.N. Human Rights Committee, *Selected Decisions on the Optional Protocol, International Covenant on Civil and Political Rights*, vol. 1, p. 100, U.N. Doc. CCPR/C/OP/1 (1985).⁵⁹ ICCPR, Articles 10(2)(b) and (3); American Convention, Article 5(5). The Convention on the Rights of the Child, which Venezuela has ratified, and which defines children as persons below the age of eighteen, provides: "Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of their age. In particular every child deprived of liberty shall be separated from adults unless it is considered in the child's best interests not to do so . . ." Convention on the Rights of the Child, Article 37(c). *See also* U.N. Standard Minimum Rules, Article 8(d) ("Young prisoners shall be kept separate from adults."); Beijing Rules, art. 13(4) ("Juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.").⁶⁰ U.N. Standard Minimum Rules, Article 8(a).⁶¹ *See* K. Tomasevski, *Prison Health: International Standards and National Practices in Europe* (Helsinki: Helsinki European United Nations Institute, 1992), pp. 99-100. The U.N. Centre for Human Rights cautions: "Of special concern are those detained persons who are tested positive for the HIV virus and those persons with AIDS, who should be given appropriate care, counselling, supervision and education, but who do not necessarily need to be separated from the general population." *Human Rights and Pre-Trial Detention*, para. 96. *See also* World Health Organization, Global Program on AIDS, "WHO Guidelines on HIV Infection and AIDS in Prisons" (Geneva, 1993) (counseling against segregation of HIV-positive prisoners).⁶² Two prisons located in remote areas are operating far below their rated capacities and many cells in the remaining prisons are unavailable because of lack of maintenance or because they are undergoing repairs. The two underused facilities are El Dorado prison, an extremely isolated disciplinary facility whose official capacity is 1,200 but which holds some eighty prisoners, and Oritupano prison, a minimum security camp whose official capacity is 500 but which holds some twenty prisoners. Neither prison is suited for further expansion.

It also bears emphasizing that the capacity of a prison is not an objective measure. International standards are exceedingly vague regarding the amount of space that should be allocated per prisoner, and, indeed, space requirements will vary according to a number of factors, including the amount of time prisoners are allowed outside their cells, the air circulation of the cells, etc. Thus prison capacity estimates are extremely malleable. *See, for example*, "Ohio 'Eases' Prison Overcrowding," *Prison Legal News*, Vol. 7, No. 11 (November 1996) (describing how the prison system of the U.S. state of Ohio changed its rules regarding the space required per prisoner, thereby inflating its rated capacity and "easing" overcrowding).

Finally, as officials of the Ministry of Justice readily conceded, Venezuelan prison statistics are rife with inaccuracies. Although the ministry is working to install computers to track prisoner flows more precisely, most prisons are not computerized, and their counts are rather unreliable. Human Rights Watch/Americas interview, Mirna Yépez, Caracas, March 6, 1996.

⁶³ These figures obviously vary over time as the prison population fluctuates and prisoners are transferred around the prison system. Some of the prisons mentioned here—most notably, the Retén de Catia and Sabaneta prison—have held much larger numbers of prisoners in the recent past. At the time of the November 1992 prisoner uprising, for example, Catia held somewhere between 3,400 and 4,200 prisoners, or some five to six times its design capacity. *See* Americas Watch, *Human Rights in Venezuela*, p. 74.⁶⁴ *See* Article 10 of the U.N. Standard Minimum Rules for the Treatment of Prisoners (mandating that prisoners be provided sufficient space to meet the requirements of health). Besides health requirements, prison authorities must also respect the requirements of human dignity. (*See, for example*, ICCPR, Article 10(1).) The overcrowded, unsanitary, and dangerous conditions found in some Venezuelan prisons are neither healthy nor compatible with human dignity.⁶⁵ The figures have not improved over the past decade. In 1986, for example, 32 percent of the prison population consisted of sentenced prisoners; in 1987, the figure was 34 percent. María G. Morais de Guerrero, "El trabajo penitenciario en Venezuela," *Revista de la Facultad de Ciencias Jurídicas y Políticas*, No. 92 (Caracas: Universidad Central, 1994), p. 181.⁶⁶ Estimates of the average time for prosecuting a criminal case vary. PROVEA, in its 1995 annual report, cited an average of four and a half to five years. Under Venezuelan law, the process should take fewer than a hundred working days from the opening of the investigative stage (*sumario*) to sentencing. Americas Watch, *Human Rights in Venezuela*, p. 76.⁶⁷ *See, for example*, Comisión Andina de Juristas, *Venezuela: Administración de justicia y crisis institucional* (Lima: Comisión Andina de Juristas, 1992), pp. 19-20. The report emphasizes that "in any analysis or debate about the administration of justice in Venezuela, two issues are always highlighted: corruption and the party penetration of the judicial power, that is, interference or pressure of political parties in judicial decisions."⁶⁸ *See* discussion below.⁶⁹ Angel Bermúdez, "18 mil casos ingresaron en tribunales," *El Universal*, December 10, 1996. The judiciary's statistician noted that the average trial court judge would have to make at least 367 rulings per year—more than one a day—to keep his caseload current. At the appellate level, these numbers are even more extreme: each of the twenty-three appellate judges handling criminal matters in Caracase received some 719 cases this year. Obviously, such heavy caseloads raise serious due process concerns.

Public defenders, which handle the cases of most detained defendants, are similarly overburdened: they average 355 cases each. PROVEA, *Informe Anual, Octubre 1995 - Septiembre 1996* (Caracas: Edisil Impresos, 1996), p. 90. One judge we spoke to, in an attempt, perhaps, to shield the judiciary from blame, asserted that it is prisoners' inadequate legal representation that is primarily responsible for the delays in

criminal proceedings. Human Rights Watch/Americas interview, Judge Ricardo Colmenares, Sabaneta prison, Maracaibo, March 11, 1996.

70 Another group of prisoners whose detention violates international norms are those held under the Law of Vagrants and Crooks (*Ley sobre Vagos y Maleantes*). Under this law, if classified as a vagrant in an administrative proceeding, a prisoner can be held up to five years without any judicial review of the propriety of his detention. Besides lacking necessary due process protections, the law has been arbitrarily and discriminatorily enforced. See Amnesty International, *The Law of Vagrants and Crooks: Suppressing dissent and punishing the poor*, AI Index AMR 53/01/95, April 1995.

At the time of our visit to Venezuela, the prison system held only a small number of people under this law (a total of ninety-four). The law was not, therefore, a significant contributing factor to the system's overcrowding. Yet the government occasionally threatens to apply the law on a large scale, an action which could further overwhelm the prison system. See, for example, Adela Leal, "Gobierno intensificará aplicación de la Ley de Vagos y Maleantes," *El Nacional*, June 26, 1995.

71 ICCPR, art. 9(3); see also General Comment No. 8 of the Human Rights Committee on the International Covenant on Civil and Political Rights, Art. 9 (Sixth Sess. 1982), Report of the Human Rights Committee, adopted Apr. 12, 1984 by the Human Rights Committee, 40 U.N. GAOR Supp. (No. 40) U.N. Doc. A/40/40 (stating "[p]re-trial detention should be an exception and as short as possible"). 72 *Hugo van Alphen v. the Netherlands* (No. 305/1988) (July 23, 1990), Official Records of the General Assembly, Forty-fifth Session, Supplement No.40 (A/45/40), vol. II., annex IX, sect. M., para. 5.8.

Similarly, the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders established that:

(b) Pre-trial detention may be ordered only if there are reasonable grounds to believe that the persons concerned have been involved in the commission of the alleged offenses and there is a danger of their absconding or committing further serious offences, or a danger that the courts of justice will be seriously interfered with if they are left free;

(c) In considering whether pre-trial detention should be ordered, account should be taken of the circumstances of the individual case, in particular the nature and seriousness of the alleged offence, the strength of the evidence, the penalty likely to be incurred, and the conduct and personal and social circumstances of the person concerned, including his or her community ties;

Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat (New York: United Nations, 1991), E.91, IV, chap.I, sect.C (para.2).

73 *Ley de Libertad Provisional Bajo Fianza*, Article 6. 74 *Ley de Libertad Provisional Bajo Fianza*, Article 13(a). 75 Several sources reported, for example that no one in Bolívar state had been freed under the terms of the pretrial release law due to a judicial refusal to implement the law. Human Rights Watch/Americas interviews with lawyers, prisoners, and prison staff, Ciudad Bolívar, March 14, 1996. At the national level, a prisoner's odds of obtaining pretrial release were said to depend on the insistence of his legal counsel, which in turn depends largely on the prisoner's ability to pay.

Public Prosecutor Antonio Mastropietro insisted on the other hand that corrupt judges were granting pretrial release too liberally. He believed that a number of recidivists were wrongly obtaining release and that they constituted a danger to the community. Human Rights Watch/Americas interview, Caracas, March 4, 1996. Either way, it is clear that the law is not being applied according to its terms. A fair system of pretrial release does not vary according on one's ability to pay either a lawyer or a judge. As one prisoner complained: "The prisons here don't hold you because you committed a crime, they hold you because you're poor." Human Rights Watch/Americas interview, Ciudad Bolívar, March 14, 1996.

76 Article 9(3) of the ICCPR provides that anyone detained on a criminal charge has the right to "trial within a reasonable time or to release." Article 14(3)(c) of the ICCPR provides simply that all defendants have the right "[t]o be tried without undue delay." (Article 7(5) and Article 8 (1) of the American Convention on Human Rights protect these rights using nearly identical language.) 77 In *Fillastre v. Bolivia* (No. 336/1988) (November 6, 1991), U.N. Doc. CCPR/C/43/D/336/1988 (1991), the Human Rights Committee found violations of both Articles 9 (3) and 14(3)(c) because trial proceeding lasting over four years had not yet resulted in a verdict. In *Koné v. Senegal* (No. 386/1989) (October 27, 1994), U.N. Doc. CCPR/C/52/D/386/1989 (1994), the Committee found a violation of Article 9(3) because the defendant was held for four years, four months pending trial. (For reasons unknown, article 14(3)(c) was not asserted in the *Koné* case.) See also *Jorge A. Giménez v. Argentina* (No. 11.245) (March 1, 1996) (OEA/Ser.L/V/II.91) (ruling of Inter-American Commission that found a violation of right to trial within a reasonable time where the defendant was detained more than five years pending trial). 78 *Fillastre*, para. 6.5. 79 Human Rights Watch/Americas interview, Antonio Mastropietro, public prosecutor, March 4, 1996. 80 Wilmer Poleo Zepa, "Entregaron ayer a sus familiares el cadáver del último recluso muerto en la tragedia de La Planta," *El Universal*, October 27, 1996. 81 The prisoners we interviewed are

identified only by their initials in order to protect their identities, since they remain subject to the power of prison authorities.⁸² Ley de Redención de la Pena por el Trabajo y el Estudio.⁸³ See Ley de Régimen Penitenciario, article 79.⁸⁴ In 1996, the Ministry of Justice granted probation and similar benefits to some 800 prisoners. "Calder indultará a 16 reclusos," *El Universal*, December 24, 1996.⁸⁵ Under the Venezuelan constitution, the president controls the pardon power. President Caldera granted 150 pardons in February in honor of the Pope's visit and sixteen more in November, for a total of 166 pardons in 1996. Ibid. Allegations that prison directors accepted bribes in exchange for recommending prisoners for pardons in February raised an uproar. See Victor Manuel Reinoso, "PTJ comenzó investigación sobre cobro por indultos," *El Nacional*, February 19, 1996.

An even more notorious pardon case is that of Larry Tovar, a prisoner we met at El Rodeo prison. Accused of drugtrafficking, he was granted a pardon by President Ramón Velásquez even prior to being tried, but the pardon was later revoked in the midst of a public scandal. Human Rights Watch/Americas interview, El Rodeo prison, March 16, 1996. When we interviewed him, he was living in the "maximum security" area of the prison, actually a comfortable administrative area. He was later sentenced to ten years' imprisonment for drugtrafficking. "Larry Tovar Acuña fue trasladado a la PGV," *El Universal*, January 7, 1997.

⁸⁶ See generally Lawyers Committee for Human Rights and Venezuelan Program for Human Rights Education and Action, *Halfway To Reform: The World Bank and the Venezuelan Justice System* (New York: Lawyers Committee for Human Rights, 1996); World Bank, Venezuela Judicial Infrastructure Project: Staff Appraisal Report, July 15, 1992. The \$30 million loan was the World Bank's first loan devoted solely to judicial reform.⁸⁷ See, for example, Alberto de la Cruz, "Reforma judicial se extenderá a la CSJ," *El Universal*, October 18, 1996; Alberto de la Cruz, "Instan a Caldera a resolver crisis judicial," *El Universal*, November 3, 1996; Angel Bermúdez, "Constitución obstruye la reforma judicial," *El Universal*, February 8, 1997.⁸⁸ See PROVEA and Comité de Abogados por los Derechos Humanos, *El Banco Mundial y la Reforma Judicial en Venezuela* (Caracas: Serie Aportes, 1996).⁸⁹ Bermudez, "Elementos políticos . . ." ⁹⁰ "Luis Enrique Oberto: 'Hasta 1998 no habrá nuevo Código Penal'" *El Universal*, October 3, 1996.⁹¹ Yet here too, unfortunately, there has been no attempt in crafting the new code to solicit the views of representatives of civil society, such as interested nongovernmental organizations. See PROVEA, *Informe Anual*, p. 96-97. Human Rights Watch/Americas has not reviewed the proposed procedural code and therefore cannot comment on its specific provisions.⁹² Mariela Leon, "Es 'casi absoluta la inseguridad jurídica,' reconoce Iván Darío Badell," *El Universal*, October 3, 1996.⁹³ The Judicial Council and the U.S. Embassy co-sponsored a workshop on trial litigation in September 1996 that was attended by over 170 Venezuelan judges and lawyers. Marianela Palacios, "Jueces y abogados venezolanos se preparan para litigio oral," *El Universal*, September 24, 1996.⁹⁴ "En marzo concluyen discusiones sobre ley de reforma judicial," *El Universal*, February 11, 1997.⁹⁵ In practice, however, inmate mobility around different areas of many prisons may be restricted by the potential for injury at the hands of inmates from a rival area.⁹⁶ At the time of our visit, two of Tocuyito's five cell-blocks had been renovated. The difference between the renovated sections, which were bright and clean, and the remaining sections, which were filthy and crumbling, almost uninhabitable, was stunning.⁹⁷ Ley de Régimen Penitenciaria, Article 38.⁹⁸ U.N. Standard Minimum Rules for the Treatment of Prisoners, Article 19.⁹⁹ Article 17(2) of the Standard Minimum Rules requires that prison clothing be kept "in proper condition."¹⁰⁰ The following descriptions are representative of what we saw and heard about the food provided in Venezuela's prisons:

At Sabaneta's maximum security annex, the main meal of the day was white rice with *arepas* (small doughy pancakes made from white corn meal); the rice appeared dirty and smelled rancid. Inmates there reported that they only receive one meal per day on Thursdays and Sundays, the days when visitors are allowed into the rest of the complex. The prison workers who brought food to the maximum security inmates confirmed this practice. Prisoners at El Dorado were fed rice with cheese, corn cakes, beans, and a drink that prison workers identified as Kool-Aid; the director stated that he was able to provide more balanced meals than at most prisons because he could augment meals with crops and meat from the prison farms. Prisoners in the Venezuelan General Penitentiary in San Juan de los Morros reported that on most days the meals consisted only of plain rice or plain spaghetti.

Inmates at La Planta reported that the main meal, served at 11:00 a.m. and a second time at 2:00 p.m., usually consisted of plantains and rice, with beans every day. They stated that they were rarely given meat. The evening meal at La Planta, served at 5:00 p.m., was juice, coffee, and bread. The size of the main meal, according to one inmate, was about as much as could fit in a large pair of cupped hands; he stated that prisoners could get food at both serving times if they wanted.

The meal we saw at El Rodeo was a thin stew of meat and vegetables over spaghetti. A few prisoners told us that they thought the main meal of the day was usually good, although breakfast and dinner were insufficient and not well balanced. One also stated that the inmates had eaten particularly well during the week of our visit. "I think they're feeding us better because you're here," he said.

¹⁰¹ Human Rights Watch/Americas interview, La Planta, March 5, 1996.¹⁰² Ley de Régimen Penitenciario, Article 41. Similarly, Article 20 (1) of the Standard Minimum Rules provides: "Every prisoner shall be provided by the administration at the usual hours with food of

nutritional value adequate for the health and strength, of wholesome quality and well prepared and served."¹⁰³ Human Rights Watch/Americas interview, Ciudad Bolívar, March 14, 1996.¹⁰⁴ Human Rights Watch/Americas interviews, Ciudad Bolívar, March 15, 1996; San Juan de los Morros, March 7, 1996.¹⁰⁵ Human Rights Watch/Americas interview, Orosman A. Azuaje, acting director, Caracas, March 18, 1996.¹⁰⁶ Human Rights Watch/Americas interview, Tocarón, March 21, 1996.¹⁰⁷ Article 12 of the U.N. Standard Minimum Rules requires that sanitary installations be "adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner." Article 13 provides that "[a]dequate bathing and shower installations shall be provided" to enable every prisoner to bathe "at a temperature suitable to the climate, as frequently as necessary for general hygiene . . . but at least once a week." Article 14 calls for all areas of a prison normally used by prisoners to be "kept scrupulously clean at all times."¹⁰⁸ Article 15 of the Standard Minimum Rules requires that inmates keep their persons clean and imposes on prison authorities the obligation of providing inmates with water and "such toilet articles as are necessary for healthy and cleanliness."¹⁰⁹ Amnesty International, during a 1993 visit to El Dorado, noted the same problem. The lack of improvement over a several-year period is discouraging. Amnesty International, *Venezuela: The Eclipse of Human Rights* (London: Amnesty International, 1993), p. 37.¹¹⁰ Human Rights Watch/Americas interview, Mirna Yépez, Caracas, March 6, 1996. El Rodeo prison, for example, had over three times as many administrative staff as guards when we visited. Human Rights Watch/Americas interview, Tirso Meza Núñez, El Rodeo prison, March 16, 1996.¹¹¹ Human Rights Watch/Americas interview, Maracaibo, March 11, 1996.¹¹² Human Rights Watch/Americas interview, Orosman A. Azuaje, Caracas, March 18, 1996.¹¹³ Human Rights Watch/Americas interview, Humberto Rivas, March 14, 1996.¹¹⁴ Human Rights Watch/American interviews, La Planta prison, Caracas, March 5, 1996.¹¹⁵ Delegating power to dominant prisoners is a risky affair. As Human Rights Watch concluded in our global prison report: "No inmate should ever be placed in a position to exercise significant authority over other prisoners." The potential for abuse of such authority is far too strong. Human Rights Watch, *Global Report on Prisons* (Human Rights Watch: New York, 1993), p. 46.¹¹⁶ "Acta de Requisa," March 2, 1996; "Acta de Requisa Extraordinaria," February 16, 1996.¹¹⁷ Victor Escalona, "Asesinados 207 presos y 1.133 fueron heridos durante 1996," *El Universal*, January 3, 1997 (citing statistics released by the Ministry of Justice). These numbers, like other statistics from the Venezuelan prison system, may be incomplete. At the prison of Ciudad Bolívar, we were shown the final tally for the sixty-three searches conducted in 1995, which was 1,285 knives (chuzos) confiscated, one pistol, and 460 home-made firearms (chopos). Even counting chopos as "dangerous objects" rather than firearms, these numbers seem high. Add the results of a few searches of Sabaneta and Catia prisons, and it would be easy to surpass the numbers provided by the Ministry of Justice.¹¹⁸ Human Rights Watch/Americas interview, Miguel Garafalo d'Angelo, Aragua, March 21, 1996. *See also* Edgar López, "Clausurado el Retén de Catia," *El Nacional*, January 26, 1997 (describing how a guard was apprehended trying to smuggle ammunition into the newly-inaugurated El Rodeo prison annex).¹¹⁹ Human Rights Watch/Americas interview, Tocuyito prison, Valencia, March 9, 1996.¹²⁰ Escalona, "Asesinados 207 presos . . ." These numbers are not disaggregated as to the number of prisoners killed by guards and the number killed by other prisoners, but our conversations with prisoners and observers of the prison system convince us that the large majority of deaths are caused by other prisoners. Of course, as the massacre at La Planta prison demonstrates, guard-on-prisoner violence is also a serious problem. (See discussion below.)

It should also be emphasized that these statistics are likely to be inexact, and are probably underestimates. Elio Gómez Grillo, a Venezuelan penologist and long-term observer of the prison system, told us that he believes the true number of violent deaths to be closer to 1,000 inmates each year. Human Rights Watch/Americas interview, Caracas, March 5, 1996.

¹²¹ Escalona, "Asesinados 207 presos . . ." The Ministry of Justice also provided Human Rights Watch/Americas with statistics showing the number of violent deaths between January 1, 1995 and March 24, 1996. Two hundred one inmates were killed with knives, and 118 prisoners were killed with firearms (again, the statistics do not explain how many of these deaths are attributable to guards and how many to other prisoners). Besides these 319 violent deaths, the statistics mention, with no further explanation, one "tragic death." One wonders what, against the backdrop of so many killings, could be considered even more tragic.¹²² Ministerio Público, Fiscal General de la República, *Informe al Congreso de la República*, Tomo II (Caracas: Imprenta Nacional, 1995), p. 56.¹²³ For an extended discussion of the massacre and its aftermath, see Human Rights Watch/Americas, *Venezuela: Prison Massacre in Maracaibo* (New York: Human Rights Watch, 1994).¹²⁴ Similarly, the report of a special legislative commission that investigated the massacre states that several eyewitnesses to the event said that prison officials refused to sound the alarm, saying: "Let them kill each other." *Informe de la Comisión Especial de la Cámara de Diputados para la investigación de los hechos ocurridos en la Cárcel Nacional de Maracaibo (Sabaneta) y en el Centro Penitenciario del Estado Aragua (Tocarón)*, Caracas, January 19, 1994, p. 5.¹²⁵ *See, for example*, Victor Escalona, "Ministerio de Justicia ordenó intervención de cuatro cárceles," *El Universal*, February 18, 1997 (two prisoners killed); Willmer Poleo Zerpa, "Doce muertos por riña in La Pica," *El Universal*, March 15, 1996 (twelve prisoners killed); Sandra Guerrero, "Cinco muertos y 4 heridos en riña con uso de armas de fuego y chuzos," *El Nacional*, November 23, 1995 (five prisoners killed); "6 muertos en motín en cárcel de Tocarón," *El Nuevo País*, Caracas, September 27, 1995 (six prisoners killed); Victor Escalona, "Seis reclusos murieron por riña en el Retén de Catia," *Diario de Caracas*, February 22, 1995 (six prisoners killed); "Murieron tres reclusos en cárcel de Sabaneta," *La Columna*, April 13, 1994 (three prisoners killed); "Masacre en la cárcel de Barcelona," *El Nacional*, June 22, 1993 (seven prisoners killed); "Dos muertos y 10 heridos en riña entre bandas," *El Universal*, June 2, 1993 (two prisoners killed); "Venezuela," *Miami Herald*, March 7, 1992 (four prisoners killed).¹²⁶ Human Rights Watch/Americas interview,

Caracas, March 5, 1996.¹²⁷ Interestingly, prisoners consistently referred to rape as "being treated like a woman," or as "being made into a woman." A few prisoners at the Ciudad Bolívar prison, without acknowledging that rape was an ongoing problem, stated that if the women prisoners in the facility were ever removed then rape would surely occur, because male prisoners would be forced to "create" some substitute women. Human Rights Watch/Americas interviews, March 14, 1996.¹²⁸ Human Rights Watch/Americas interview, March 15, 1996.¹²⁹ Human Rights Watch/American interview, Nestor López Pérez, Caracas, March 5, 1996.¹³⁰ Ley de Régimen Penitenciario, Article 1; Reglamento de Internados Judiciales, Articles 1 and 75.¹³¹ Ley de Régimen Penitenciario, Article 8; Reglamento de Internados Judiciales, Articles 76.¹³² Ley de Régimen Penitenciario, Article 53.

In addition, Venezuela's prison code, following international standards, specifies that prisoners should be provided with information regarding the prison rules upon entry to a facility. (See Ley de Régimen Penitenciario, Article 50; Standard Minimum Rules, Article 35(1).) Although some prison officials stated that prisoners receive an oral orientation that includes reference to prison rules, prisoners disputed this claim.

¹³³ Ley de Régimen Penitenciario, Article 57.¹³⁴ Tellingly, the human rights component of the National Guard's training only covers the laws of war, not the most appropriate area of law for service in the prisons.¹³⁵ Human Rights Watch/Americas interview, Tocuyito prison, Valencia, March 9, 1996.¹³⁶ Human Rights Watch/Americas interview, Carabobo Máxima, Valencia, March 8, 1996.¹³⁷ Human Rights Watch/Americas interview, Sabaneta prison, Maracaibo, March 11, 1996. The Metropolitan Police, which had been charged with keeping control at Catia prison, used similar tactics. As one prisoner stated: "The searches usually happen around midnight. We're ordered to strip, lie on the floor, and put our arms behind our head. Then the *policia* walk around hitting us on the back, the buttocks, and the legs. Sometimes they shoot off their rifles. They smash everything: food containers, radios, peoples' personal things. You can't complain, because if you do, they beat you more." Human Rights Watch/Americas interview, Caracas, March 18, 1996.¹³⁸ Articles 27 to 32 of the U.N. Standard Minimum Rules set out the standards governing punishment, which require that individuals be heard and be given an opportunity to defend themselves prior to being punished.¹³⁹ Human Rights Watch/Americas interview, Valencia, March 8, 1996.¹⁴⁰ In general, the Ministry of Justice was somewhat reluctant to release information to the Human Rights Watch/Americas delegation regarding prison violence. Although we did finally receive statistics on prison deaths and injuries, they did not disaggregate guard-on-prisoner violence and prisoner-on-prisoner violence, despite our specific request that they do so. ¹⁴¹ For a more complete description of the killings at Catia, see Americas Watch, *Human Rights in Venezuela*, pp. 74-83.¹⁴² "El presidente Caldera: Sucesos en La Planta encierran un dolor que nos concierne a todos," *El Nacional*, October 24, 1996. In addition, numerous prisoner protests erupted in the wake of the La Planta tragedy, as prisoners at Catia, El Rodeo, and other facilities went on hunger strikes and sewed their lips together, insisting that those responsible for the La Planta fire be criminally prosecuted and that abuses against prisoners be halted. Victor Escalona, "Más de mil 500 presos de Catia se unieron a la huelga de hambre," *El Universal*, October 30, 1996.¹⁴³ The Fiscal General publicly called for an end to militarization, stating that only civilian guards should be charged with the maintenance of internal order of the prisons. "El Fiscal Iván Darío Badell: La GN debe salir de las cárceles," *El Nacional*, October 24, 1996. Venezuelan prisons expert Elio Gómez Grillo asserted that "jails are not prison camps," and the armed forces have no business managing them. Paul Hughes, "Venezuelan Jail Fire May Go Unpunished," *Reuter*, October 24, 1996.¹⁴⁴ Human Rights Watch/Americas interviews, Tocarón prison, March 24, 1996.¹⁴⁵ Human Rights Watch/Americas interview, Tirso Meza Núñez, El Rodeo prison, March 16, 1996.¹⁴⁶ Human Rights Watch/Americas interview, Mirna Yépez, Caracas, March 6, 1996.¹⁴⁷ Human Rights Watch/Americas interview, Gen. Moises Orozco, minister of defense, Caracas, March 19, 1996.¹⁴⁸ Alberto de la Cruz, "Voto de censura contra ministro Meier," *El Universal*, February 5, 1997.¹⁴⁹ Human Rights Watch/Americas interview, Iván Darío Badell, Caracas, March 19, 1996; Human Rights Watch/Americas interview, Antonio Mastroprieto, Caracas, March 4, 1996.¹⁵⁰ The nongovernmental organization COFAVIC continues to pursue the cases of the prisoners killed in the Catia massacre. In August 1994, the investigative judge of Caracas' twenty-ninth penal court made a finding of *averiguación abierta* in over forty of the cases; the ruling proclaims that a criminal act was committed, but that evidence is lacking as to who is guilty of the act.

In his discussions with Human Rights Watch/Americas representatives, Public Prosecutor Mastroprieto seemed anxious to justify the Catia killings, mentioning the so-called flight law (*ley de fuga*) and stating that guards have the right to shoot at escaping prisoners as long as they aim for the prisoners' legs. Yet, as Ministry of Justice officials and others assured us during our 1993 visit to the country, Venezuelan law does not permit the application of any flight law. See Americas Watch, *Human Rights in Venezuela* (New York: Human Rights Watch, 1993), p. 81. Mastroprieto also explained that because there were so few guards compared to the number of escaping prisoners, the guards "had to kill them." Human Rights Watch/Americas interview, Antonio Mastroprieto, Caracas, March 4, 1996.

¹⁵¹ José Gregorio Rodríguez Torres, *La averiguación de nudo hecho* (Caracas: Ediciones Orley, undated), p. 23.¹⁵² Americas Watch, *Human Rights in Venezuela*, p. 16.¹⁵³ The record of Venezuelan military courts in prosecuting human rights violations is abysmal. As we explained in our 1993 report: "Traditions of loyalty can impede impartial determination of the facts, scrupulous adherence to procedure, and sound legal rulings. Our experience studying human rights in numerous countries has convinced us that military courts are unlikely to be impartial arbiters of justice when the judge, prosecutor and defendants are all members of the military and the victims of the defendants' alleged

conduct are civilian." (Ibid., p. 18.)¹⁵⁴ See *ibid.*, p. 17-19.¹⁵⁵ Indeed, further complicating the jurisdictional posture of the case, two separate civilian criminal courts opened investigations of the fire.¹⁵⁶ On October 31, Judge Maximiliano Fuenmayor of the Caracas' sixteenth penal court detained guard Cecilio Antonio Materán Contreras on charges of manslaughter, together with three National Guardsmen-Capt. Osmel Martínez, Lt. Oscar Vicente Pérez Mujica and Cpl. Alexis Zabala-whom he charged with being accomplices in manslaughter, improper use of firearms and abuse of authority. Judge Mary Carmen La Riva Ron of the forty-ninth penal court, had already placed Pérez Mujica and Materán Contreras in preventive detention, along with the warden of La Planta and a senior member of the prison staff. Wilmer Poleo Zerpa, "Juez 16 dictó autos de detención por homicidio calificado en La Planta," *El Universal*, November 1, 1996. Although Judge La Riva then declined jurisdiction, military court III, under Lt. Col. Pablo Marín Adrián, was still investigating the blaze. Concerned about the jurisdictional conflict and the possibility that the crimes would go unpunished, seven Venezuelan human rights organizations released a statement strongly urging that the case be left to the civilian courts.¹⁵⁷ Human Rights Watch/Americas interview, Caracas, March 5, 1996.¹⁵⁸ See Pedro Duno, "La industria de los presos," *El Globo* (Caracas), September 1, 1994 (attributing the phrase to former Minister of Justice Fermin Mármol León). Although given the nature of the problem any attempt to measure the amount of money at issue is bound to be extremely inexact, the size of the estimates are nonetheless impressive. In Catia prison alone, the "prisoner industry" has been estimated at nearly Bs. 1,300,000,000 annually (approximately US \$4.5 million). Miguel Maita, "El colapso penitenciario en Venezuela," *El Universal*, March 21, 1995 (citing a study conducted by a multinational company).¹⁵⁹ Human Rights Watch/Americas interview, San Juan de los Morros, March 7, 1996.¹⁶⁰ Ministerio de Justicia, "Escala de sueldo a personal penitenciario," Caracas, 1996 (document on file with Human Rights Watch/Americas). One of the guards at Catia insisted on showing us his payment stubs (perhaps he was not sure we would otherwise believe how little he earned); it was actually Bs. 40,928 a month (approximately US \$141.65): a salary of Bs. 23,328, a risk premium of Bs. 11,000, a transportation payment of Bs. 3,300, and a food payment of Bs. 3,300.¹⁶¹ Human Rights Watch/Americas interview, Tirzo Meza Núñez, March 16, 1996.¹⁶² Human Rights Watch/Americas interview, Elio Gómez Grillo, Caracas, March 5, 1996.¹⁶³ See generally Ministry of Justice, "Situación del sistema de salud penitenciaria" (1995).¹⁶⁴ The Ministry reported that 853 inmates were injured by "armas blancas," referring to knives and similar weapons; 364 by firearms; fifty-two with injuries from both categories of weapons; and eight injured by handmade firearms. Ministry of Justice, "Reporte de sucesos por total," Caracas, March 25, 1996.¹⁶⁵ Centro Penitenciario de Carabobo, Acta, February 4, 1996.¹⁶⁶ Escalona, "Presos mala conducta . . ." ¹⁶⁷ Ministry of Justice, "Reporte de sucesos por total." ¹⁶⁸ Human Rights Watch/Americas interviews, San Juan de los Morros, March 7, 1996.¹⁶⁹ Ministry of Justice, "Reporte de sucesos por total." ¹⁷⁰ Victor Manuel Reinoso, "Intento de suicidio en Tocuyito prueba violación de derechos humanos en el país," *El Nacional*, February 4, 1995.¹⁷¹ "Situación del sistema de salud penitenciaria," p. 6.¹⁷² E.g., Human Rights Watch/Americas interview, Sabaneta prison, Maracaibo, March 11, 1996.¹⁷³ The infirmary at La Planta prison in Caracas stocked condoms, but it was the only facility visited by Human Rights Watch/Americas that did so.¹⁷⁴ "Situación del sistema de salud penitenciaria," p. 6.¹⁷⁵ Ley de Régimen Penitenciario, Article 42; Reglamento de Internados Judiciales, Article 21. The U.N. Standard Minimum Rules require that every prison have available the services of at least one "qualified medical officer" who "shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illnesses, and any prisoner to whom his attention is specially directed." U.N. Standard Minimum Rules, Articles 22(1) and 25(1).¹⁷⁶ Ley de Régimen Penitenciario, Articles 42 through 49.¹⁷⁷ Sub-Comisión de Asuntos Penitenciarios, *Análisis sobre la situación penitenciaria en Venezuela*, Caracas, 1996.¹⁷⁸ Human Rights Watch/Americas interview, Caracas, March 18, 1996.¹⁷⁹ Human Rights Watch/Americas interview, nurse, Sabaneta, March 11, 1996. She said that otherwise there were three nurses: one on duty in the morning and two in the afternoon.¹⁸⁰ Human Rights Watch/Americas interview, Orosman A. Azuaje, acting warden, Caracas, March 18, 1996.¹⁸¹ *Ibid.*¹⁸² Human Rights Watch/Americas interview, Valencia, March 10, 1996.¹⁸³ Human Rights Watch/Americas interview, El Rodeo, March 16, 1996.¹⁸⁴ Human Rights Watch/Americas interview, Caracas, March 5, 1996.¹⁸⁵ Ley de Régimen Penitenciario, Article 47; U.N. Standard Minimum Rules, Article 22.¹⁸⁶ "Situación del sistema de salud penitenciaria," p. 8.¹⁸⁷ Human Rights Watch/Americas interview, Caracas, March 5, 1996.¹⁸⁸ The prisoners we interviewed are identified only by their initials in order to protect their identities, since they remain subject to the power of prison authorities.¹⁸⁹ Human Rights Watch/Americas interview, El Dorado, March 13, 1996.¹⁹⁰ Human Rights Watch/Americas interview, El Dorado, March 13, 1996.¹⁹¹ The prison of Ciudad Bolívar, which permits visits every Wednesday and Sunday from 8:00 a.m. to 3:00 p.m., is fairly typical. On an average weekend day about 400 people visit it. Human Rights Watch/Americas interview, Humberto Rivas, director, March 14, 1996.¹⁹² Human Rights Watch/Americas interviews, Valencia, March 8, 1996.¹⁹³ Human Rights Watch/Americas interview, El Dorado, March 8, 1996.¹⁹⁴ "Presos mala conducta a El Dorado," *El Universal*, November 30, 1996; "Calera indultará a 16 reclusos," *El Universal*, December 24, 1996.¹⁹⁵ See Human Rights Watch, *Global Report on Prisons* (New York: Human Rights Watch, 1993), p. 108.¹⁹⁶ The exception to this rule was the couple of prisoners we met charged with narcotrafficking who had cellular phones.¹⁹⁷ "Defensorías Públicas de presos para el año 1.996" (document on file at Human Rights Watch/Americas).¹⁹⁸ Human Rights Watch/Americas interview, Caracas, March 18, 1996.¹⁹⁹ In 1995, for example, public defenders made 1,767 prison visits, obviously meeting with only a small minority of detained defendants. "Defensorías Públicas de presos para el año 1.996."²⁰⁰ The discriminatory denial of conjugal visits to women prisoners is discussed below.²⁰¹ A special case is that of spouses detained at the same facility. In these cases, contact visits-but not

conjugal visits-are generally allowed every fifteen days.²⁰² Most restrictions are fairly self-evident, like the fact that visitors cannot enter a facility carrying weapons or drugs. A few of them are less obvious: for example, visitors cannot wear black or green, since prisoners might want to wear clothes of these colors when trying to escape. In addition, fruit is not allowed into many prisons, since prisoners might ferment it and make home-brewed alcohol.²⁰³ Human Rights Watch/Americas interview, Valencia, March 9, 1996.²⁰⁴ Human Rights Watch/Americas interview, Valencia, March 9, 1996.²⁰⁵ Human Rights Watch/Americas interview, El Dorado, March 13, 1996.²⁰⁶ "El Papa, el Retén y las requisas vegetarias," *El Globo*, January 10, 1996.²⁰⁷ Human Rights Watch/Americas interview, Tirso Meza Núñez, March 16, 1996.²⁰⁸ Human Rights Watch/Americas interview, Oscar Castillo, Maracaibo, March 11, 1996. *See also* Sandra Guerrero, "Un muerto y 3 heridos en el Retén de Catia," *El Nacional*, February 4, 1996 (describing how a visitor to Catia was apprehended trying to smuggle in five knives in his underwear).²⁰⁹ Human Rights Watch/Americas interview, Mirna Yépez, Caracas, March 6, 1996. The former governor of the state of Zulia, in which Sabaneta prison is located, issued a decree banning the practice of vaginal searches. Decreto No. 368-B, December 8, 1995 (copy on file with Human Rights Watch/Americas). She explained in the decree that vaginal searches "threaten the individual's constitutional right to the protection of honor." The only exception to the ban is cases in which there are well-founded reasons to believe that a visitor is attempting to smuggle contraband: in such cases a public prosecutor may authorize a search by a medical professional.²¹⁰ For example, Human Rights Watch/Americas interview, Humberto Rivas, warden, Ciudad Bolívar prison, March 14, 1996. At El Rodeo prison, which does not conduct vaginal searches but does require women visitors to lower their underwear and squat naked, approximately 10 to 20 percent of women visitors are found to be suspicious (on an average visiting day, one hundred to 200 women out of 1,000). Human Rights Watch/Americas interview, Tirso Meza Núñez, March 16, 1996.²¹¹ *María Arena v. Argentina*, Case No. 10,506 (October 30, 1996). The commission also ruled that such searches violate the right to protection of the family, guaranteed in Article 17 of the American Convention.²¹² General Comment 16 to Article 17, "Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies," U.N. Document HRI/GEN/Rev.1, July 29, 1994.²¹³ Programa de Educación y Acción en Derechos Humanos, *Informe Anual: Situación de los Derechos Humanos en Venezuela, Octubre 1994-Septiembre 1995* (Caracas: PROVEA, 1994), p. 104.²¹⁴ Human Rights Watch/Americas representatives saw metal detectors in use in El Rodeo and Catia prisons.²¹⁵ Ley de Régimen Penitenciario, Article 16; Reglamento de Internados Judiciales, Article 16.²¹⁶ Sub-Comisión de Asuntos Penitenciarios, "Análisis sobre la situación penitenciaria en Venezuela," Caracas, 1996, p. 2. Prisoners' earnings vary considerably. As described, most prisoners work independently; obviously their earnings depend on their skill and the demand for their goods or services. Prisoners working in prison industries or providing janitorial services to the prison are also paid at very different rates. At Catia, for example, we were told that inmates made up to Bs. 500 a month (approximately US \$1.73) cleaning the facility; at La Planta, they earn up to Bs. 4,500 a week (approximately US \$15.57) sewing exercise clothing. Human Rights Watch/Americas interviews, Orosman A. Azuaje, acting warden, Catia, Caracas, March 18, 1996, and Nestor López Pérez, warden, La Planta, Caracas, March 5, 1996.²¹⁷ Human Rights Watch/Americas interview, Tirso Meza Núñez, March 19, 1996. These prisoners live in a minimum security area of the prison separate from the main four-story cellblock.²¹⁸ Human Rights Watch/Americas telephone interview, Jacqueline Aizpurua, delegate of the European Commission, Caracas, April 1, 1996; Letter to Human Rights Watch from Carlos Gil, head of the delegation of the European Commission in Venezuela, Caracas, April 15, 1996.²¹⁹ Sub-Comisión de Asuntos Penitenciarios, "Análisis sobre la situación penitenciaria en Venezuela," p. 2.²²⁰ There is no organized education at the prison of Ciudad Bolívar, but the prisoners themselves have built a classroom with desks, and a few of the more educated prisoners are offering classes.²²¹ El Rodeo, for example, has five classrooms, providing sufficient space to teach some 300 students, and a library with a large selection of old, dusty books. The warden of Tocuyito said that about 600 prisoners were enrolled in some kind of educational activity, from primary and secondary education to the Open University (Universidad Abierta), but prisoners were skeptical about this claim.²²² There is variation within each prison as well, since even the more restrictive prisons generally have certain privileged inmates with a freer run of the facility.²²³ Prisoners have their own electronic devices in most, but not all, prisons. In El Rodeo, for example, even though prisoners are locked up in their cellblocks almost all of the time, there are no TVs or radios.²²⁴ The Ministry of Justice reported that 250 volunteers worked in the prisons in 1995 through the Catholic Prison Volunteers (Voluntariado Penitenciario Católico) program. Ministry of Justice, *Memoria y Cuenta 1995*, p. 121. Notable among them are the Petare Justice and Peace Commission, led by Father Matías Camuñas, a priest and human rights advocate in the Caracas area, and the prison unit of the Justice and Peace Commission of the Joint Secretariat of Priests and Nuns of Venezuela (Secretariado Conjunto de los Religiosos y Religiosas de Venezuela, SECORVE). While in Venezuela, Human Rights Watch/Americas met with representatives with both of these groups.²²⁵ Facilities with independent annexes for women are: the Centro Penitenciario Nacional de Valencia (known as Tocuyito), in Carabobo state; the Cárcel Nacional de Maracaibo (known as Sabaneta), in Zulia state; the Centro Penitenciario de Aragua (known as Tocarón), in Aragua state; and the Casa de Reeducción y Trabajo Artesanal (known as La Planta), in Caracas.

The remaining facilities housing women are: the Centro Penitenciario de Occidente, in Táchira state; the Cárcel Nacional de Ciudad Bolívar, in Bolívar state; the Centro Penitenciario de Oriente, in Monagas state; the Internado Judicial de Coro, in Falcón state; the Internado Judicial de San Felipe, in Yaracuy state; the Centro Penitenciario de los Llanos, in Portuguesa state; the Internado Judicial de Barinas, in Barinas state; the Internado Judicial de Barquisimeto, in Lara state; the Internado Judicial de Mérida, in Mérida state; the Cárcel Nacional de Trujillo, in Trujillo state; the Internado Judicial de San Fernando de Apure, in Apure state; the Internado Judicial de Cumana, in Sucre state; the Internado Judicial

de Carupano, in Sucre state, the Centro Penitenciario de la Región Insular, in Nueva Esparta state; the Centro Penitenciario de Barcelona, in Anzoategui state; and the Internado Judicial de San Juan, in Guárico state.

226 One of them, who was described as a hermaphrodite, is actually known as the "grandfather." Human Rights Watch/Americas interviews, women prisoners, Tocarón women's annex, Aragua, March 24, 1996. 227 This section does not cover conditions at the prison of Ciudad Bolívar, where women and men prisoners share common quarters. Conditions at that facility, which are appalling for both men and women, are discussed above in the chapter on living conditions. 228 Two years previously, however, it had held 400 women and was said to be bursting at the seams. Human Rights Watch/Americas interviews with staff at Sabaneta women's annex, Maracaibo, March 11, 1996. 229 Ley de Régimen Penitenciario, Article 84; Reglamento de Internados Judiciales, Article 72. 230 It should be noted, however, that while some "militarized" facilities have women's annexes, normally the National Guard has little contact with the women prisoners. The National Guard hardly ever enters the Tocuyito or Sabaneta women's annexes, for example; its frequent operations in the Tocarón women's annex seem to be an exception in this respect. 231 Human Rights Watch/Americas interviews with numerous women prisoners, Tocarón women's annex, Aragua, March 24, 1996. 232 Human Rights Watch/Americas interview, March 24, 1996. Similarly, women prisoners at La Planta prison complained that although outright violence was rare, guards were often verbally abusive. 233 Human Rights Watch/Americas interview, Caracas, March 15, 1996. 234 The sub-director of the La Planta women's annex acknowledged that at certain times there were only two guards (or a guard and a group chief) on duty. Human Rights Watch/Americas interview, María Hernández, Caracas, March 15, 1996. 235 Ley de Régimen Penitenciario, Article 88. 236 There were no children living in the La Planta women's annex, although the director emphasized that all of the women were mothers. Two women were pregnant when we visited. Nor were there any women with children or pregnant women at the Tocarón women's annex. Pregnant women were said to be transferred to the INOF or the Santana women's annex. 237 Human Rights Watch/Americas interview, INOF, Los Teques, March 21, 1996. 238 When we visited Tocarón, these visits had been suspended for over a year. 239 In this respect, Venezuela is similar to other countries in the region, which tend to grant conjugal visits to male prisoners while denying them to female prisoners. Costa Rica, which grants conjugal visits to both sexes, is the exception in this respect. *See generally* Observatoire internationale de prisons, *Rapport 1995* (Lyon: Observatoire internationale de prisons, 1995). 240 The original resolution granting women prisoners the right to conjugal visits was adopted in December 1993. It was supposed to enter into force in March 1994 but its implementation was delayed. *See* Ministerio de Justicia, Resolución que autoriza y regula la visita íntima de las internas de los establecimientos penitenciarios y anexos femeninas (resolution authorizing and regulating intimate visits for women detained in prisons and women's annexes), No. 402, December 17, 1993. It is planned that the pilot program begun at the INOF will be extended to the Santana women's annex, and then to other women's annexes. Human Rights Watch/Americas interview, Raiza Bastardo, warden of the INOF, Los Teques, March 21, 1996. 241 A "team of experts" from the INOF developed the women's conjugal visit policy, which was reviewed by a congressional women's commission. In the original draft policy, women were permitted to receive conjugal visits from their "spouse, legal concubine, or boyfriend." The reference to boyfriend was deleted, however, because of a fear that women would engage in prostitution and the general sentiment that not just "any" man should be allowed to visit. The requirement of venereal disease testing was also amended to be every three months rather than every six. Human Rights Watch/Americas interview, Raiza Bastardo, March 21, 1996. 242 Human Rights Watch/Americas interview, INOF, Los Teques, March 21, 1996. 243 A couple of wardens also stated that conjugal visits would have the effect, in their view beneficial, of reducing lesbianism. *E.g.*, Human Rights Watch/Americas interview, Raiza Bastardo, March 21, 1996. 244 Article 26 of the ICCPR provides: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as . . . sex." Similarly, Article 2 of the CEDAW states: "States parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: . . . (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; . . ."

Notably, the Ministry of Justice resolution granting women the right to conjugal visits specifically cites Article 61 of the Venezuelan Constitution, which prohibits sex discrimination. *See* Resolution No. 402, December 17, 1993.

245 For example, the International Labor Organization's Committee of Experts interpreted ilo Convention 111 on Discrimination in Respect of Employment and Occupation, which prohibits discrimination based on gender in access to employment, to prohibit pregnancy discrimination. *Conditions of Work Digest*, Volume 13 (Geneva: International Labor Office, 1994), p. 24. Similarly, in a 1991 case the European Court of Justice (ecj) ruled that pregnancy-based discrimination constitutes impermissible sex discrimination. The ecj ruled against a Dutch company that sought to avoid hiring a woman because she was pregnant, concluding that "only women can be refused employment on the grounds of pregnancy and such a refusal therefore constitutes direct discrimination on the grounds of sex." Case C-177/88, *Dekker v. Stichting Vormingscentrum voor Jong Volwassenen (VJV-Centrum) Plus*, 1990 E.C.R.3941. Although the findings of the ecj are not binding in Venezuela, the court's holding constitutes a persuasive ruling that pregnancy-based discrimination is a form of sex discrimination.

For a more extended discussion of this topic, see Human Rights Watch Women's Rights Project, *No Guarantees: Sex Discrimination in*

Mexico's Maquiladora Sector, Vol. 8, No. 6 (August 1996), pp. 30-33.

²⁴⁶ Human Rights Watch/Americas interview, Los Teques, March 21, 1996. ²⁴⁷ See chapter above on medical care. ²⁴⁸ Ministry of Justice, "Situación del sistema de salud penitenciaria." ²⁴⁹ Most of the work was piece work, and thus a woman's earnings varied according to her speed and skill. Women seamstresses at Sabaneta, for example, were paid about sixty bolivares per piece of clothing. The carpets made there, which were very labor-intensive, brought in about Bs. 15,000 (approximately US \$51.90). Women at La Planta said doll-making could bring in Bs. 9,000 (approximately US \$31.14) in profit a week.

Equally important, it appeared that women prisoners were successfully receiving sentence reductions for their work. At the INOF, for example, the warden told us that the facility's population had shrank substantially due to work-related sentence reductions. Human Rights Watch/Americas interview, Raiza Bastardo, March 21, 1996.